IROQUOIS INDIANS:

A Documentary History of the Diplomacy of the Six Nations and Their League

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INTRODUCTION

This compilation is like none other in the world. It is an archive of documents made by and concerning a people without scribes, documents recorded by other parties and originally filed away obscurely in repositories devoted to other interests. Because the League of the Iroquois and its constituent Six Nations negotiated diplomatically with the agents of empires, provinces, and nation-states, as well as with other Indian nations, Iroquois treaty documents came to rest in The Netherlands, France, Great Britain, Canada, and the United States, and in many state and private collections, in all of which the Iroquois documents were secondary to the thousand and one concerns of Europeans and Euro-Americans. Now these many scattered collections have been culled to create the first authentic archive of an indigenous tribal people.

Strictly speaking, an archive consists of the documents generated by an agency or institution, but we may think in terms of an imaginary Iroquois foreign office whose papers were destroyed in an imaginary fire, being preserved only in the copies made for other parties to negotiations. With that fiction in mind, what we have here is a reconstituted archive. Regardless of problems of definition, it is a body of texts exceedingly important to genuinely reconstituting the history of the United States and its predecessor colonies and native peoples.

The Iroquois League was a great military and political power in North America during the seventeenth and eighteenth centuries. Its importance was recognized by contemporary statesmen of competing European empires and colonies, who vied with each other to secure Iroquois friendship and alliance. After 1700, the Iroquois policy of neutrality maintained a balance of power between the empires that lasted until the Seven Years War, and the Iroquois nations were wooed by Britain and the United States during the War of the American Revolution. It is not possible to write a valid political history of eastern North America during the era preceding

the Revolution without carefully considering Iroquois participation in the most important events of the time; and the basis of the Northwest Ordinances of 1784-87 was the treaty made at Fort Stanwix between the United States and the Iroquois in 1784.

Though the Iroquois League fragmented during the American Revolution and its people are now scattered on Canadian and American reservations, and individually as far as Hawaii, their history after the Revolution became inextricably part of the history of the Great Lakes region and of the vast intersocietal trade that moved westward across the continent. Defying dogmas of the vanishing Indian, more Iroquois are now alive than were previously recorded at any one time.

The major problem in studying Iroquois participation in North American history has been the scattered and unreliable condition of the source materials. A large number were virtually inaccessible. Most have never been validated by critical examination for omissions, variance between copies, or other contradiction by other contemporary documents. In national and state archives, Iroquois treaties are submerged in the general material, their arrangement and cataloging ill-suited to the study of indigenous peoples; and indexes are at best inadequate, often erroneous and misleading. There is continuing attrition of source manuscripts, identifiable by later references to documents that no longer can be found.

Now, however, most of the problems of access have been solved by the archive presented herein; and comparison of documents has been facilitated. The documents included were compiled by a project begun in September 1978 at the D'Arcy McNickle Center for the History of the American Indian at the Newberry Library. Funded for three years by the Research Division of the National Endowment for the Humanities, and staffed by a historian and three anthropologists with the assistance of many temporary aides, the project initially aimed at compiling less than 3,000 texts, but even the specialists had badly underestimated Iroquois diplomatic activity and

its involvements. The documents piled up to three times the original estimate, and the project's actual duration extended past its formal closing for three more years. It has been completed nevertheless, largely owing to the dedicated support of the Newberry Library and donation of labor by the staff. Many generous contributions by individuals and institutions are acknowledged below.

Project staff made no effort to collect original source documents. Instead, it copied them by microphotography or xerography and made paper copies of all documents to be filed in an archive at the Newberry. This publication reproduces that archive. It is open to addition as new documents come to light, and students are solicited to send information about such new documents to the Newberry. The archive's calendar is available on a computer printout at the Newberry, and a card index of names and subjects refers to about one-sixth of the documents on file. Access may be had by qualified students. An indexed document is noted as such by a degree sign after the date of the document on the headnote to the document and in the calendar. Regrettably the index could not be completed because of lack of funds, but it is useful in combination with the calendar. Both are printed in the guide that accompanies this film. A reader may wish to scan the calendar for context before concentrating on particular documents. Calendar and index, especially when used together, are finding aids for the location of particular documents and sets of related documents.

ABOUT THE TEXTS

What They Are

The documents presented here include the minutes of treaty conferences, the agreements resulting from formal meetings, and a broad range of background materials useful for interpreting motives, procedures, and effects. The editors' basic standard for selection was relevance to the diplomatic history of Iroquois nations or their league. Other parties involved in the negotiations are also included.

Most of the documents are manuscript or printed texts arranged in chronological order. Often it has been possible to compile copies of the same text from different sources, and sometimes these are variant, sometimes significantly so. All copies are included. Texts in languages other than English are presented but only rarely translated.

Photographs of wampum belts are also included as representing Indian records of negotiations. In almost all instances, it has not been possible to identify a particular belt with a specific written record, and the editors have concluded regretfully that the belts cannot be deciphered by a general code. Nevertheless certain conventional patterns have been observed, so the belts are grouped according to emblematic content, following the last written text at the end of the microfilm publication.

The documents span a period from the earliest surviving sixteenth century texts through the year 1842.

How They Were Copied

The editors depended on many archives and repositories for exact xerographic copies of original documents in their possession. Their valuable cooperation was unstinted, but the variety of their facilities for copying prevented the adoption of a uniform reduction ratio. Therefore, although the final microfilming at Research

Publications was done at a constant reduction ratio, there is no constant relation between the relative size of documents on our film and the actual dimensions of the originals.

The integrity of the documents was the editors' foremost concern. No document has been altered. Very few extractions were made and they are noted in every case. No marks were made by us on copies received except, in some cases, for bold editorial lines with arrows, to denote the beginning and end of a document. Such indications were also used to note overlapping when a large page had to be copied in sections.

The editors aimed at comprehensiveness. This objective required inclusion of some texts so mutilated or faint in the original as to be minimally legible. These are given nevertheless for whatever information can be extracted from them. Some are more legible in the technically enhanced copies than in the originals.

As in all publications, the originals remain the ultimate source to be consulted when issues of textual validity arise. The location of every document is given in a headnote.

How They Are Presented

Each entry consists of a headnote with the document's date, a brief description, and the source, followed by the document itself. In a few cases a translation or annotation will follow the document.

Each headnote description reflects the perspective of the document rather than editorial comment about it. As descriptions were often taken from catalogs or notations of source repositories, spelling of names is not standardized. Editorial remarks, if present, appear in parentheses or annotations.

Bracketed dates have been assigned by the editors. Single documents are given with the date when written regardless of the time referred to in their contents. This has been done because documents are products of the time and circumstances when written, and these may seriously affect interpretation of the contents. To

preserve textual integrity, some texts have been included as found in collections of documents spanning a period of time which is so dated: e.g., 1645-Sept 1654. Multiple copies of the same document, same date, are distinguished as Document I, Document II, etc., and filed in sequence under their common date.

If a document is dated more than one year from the date of the treaty to which it pertains, it is cross-referenced under the treaty date. Because of the prolonged nature of many treaty negotiations, users should scan the compilation's calendar to find appropriate documents within a year of any event of interest. Although cross-references refer to specific documents, distinguished by Roman numerals in cases in which there is more than one document of the same date, references to other documents in editorial remarks within descriptions of a particular document do not make use of Roman numerals to distinguish between documents of the same date. In these cases, all documents of the date cited should be checked for the reference.

The editors have not tried to reconcile or adjust dates in the Old Style Julian calendar used by the English for many years after the French and Dutch had changed over to the New Style Gregorian calendar. Dates are given herein as they appear on the documents. When the English finally changed over, they often gave both new and old dates on the same text; in such instances the editors opted for the New Style annotation.

The project staff has compiled and edited a printed reference manual to assist in interpreting the texts, and we urge that it be kept handy during research. It is The History and Culture of Iroquois Diplomacy: An Interdisciplinary Guide to the Treaties of the Six Nations and Their League (Syracuse: Syracuse University Press, 1984). It is a volume for quick and easy reference, self-contained but especially useful in conjunction with this compilation of documents.

ACKNOWLEDGEMENTS

This archive could not have been compiled without the generous contributions of counsel and materials from many persons and agencies. No one is intentionally left out of the following list. Pardon is asked for any inadvertent omission.

Indian people: Early in the project, Richard Powless and Paul Williams of the Union of Ontario Indians provided a list of treaty documents. Seven persons from the Union of Ontario Indians visited the project from 23rd to 29th June 1979 and offered comments and suggestions. Phil Monture, Land Researcher at Six Nations Reserve shared knowledge of locations of source materials. George Abrams, Director of the Seneca Iroquois National Museum on the Allegany Seneca Reservation, and Ramona Charles, Librarian at the Community House on the Tonawanda Seneca Reservation, provided information about the location of materials. Tribal historians from different political persuasions on fellowship at the Center discussed the project with staff members during their residence: Norbert Hill and Sandra Orie came from the Oneida Reservation in Wisconsin, and Douglas George, recommended by the "traditional" Mohawk Nation, came from the St. Regis (Akwesasne) Reservation. Everett White, born and raised at St. Regis (Akwesasne), provided valuable information about documents based on his former experiences as an Indian Health Service employee and his personal interest in the history of his people. Most important information and advice were given on a visit by Cayuga Chief Jacob E. Thomas who represents the Cayuga nation in the Grand Council of the Houdenosaunee and teaches in Trent University, Peterborough, Ontario. On 22nd May 1980, Chief Thomas made a joint presentation with Dr. Michael K. Foster, Iroquoian Ethnologist of the Canadian National Museum of Man. At a colloquium at the Newberry, they showed slides and facsimile artifacts and explained symbols in terms of Iroquois custom. Through the following day, Chief Thomas held nonstop conversation with project staff who took extensive notes and taped his analyses of certain wampum belts. He continued

in correspondence afterward. Informal visitors to the project included Charles Patton and Tyler Hemlock, Caughnawaga (Kahnawake) Mohawks; and Alice Armstrong and Helen Laughing, Mohawks employed in the Demographic Office, Mohawk Tribal Offices, St. Regis Reservation.

When Associate Director Mary A. Druke traveled to Indian communities, she was received hospitably everywhere. Indians of Onondaga, including Oren Lyons, Irving Powless, Jr., and Irving Powless, Sr., though unsympathetic to the project, received her graciously and explained their attitudes. Information about documentary material and oral traditions were provided to her by residents of the following Indian communities: Allegany; Cattaraugus; Caughnawaga (Kahnawake), Onondaga, St. Regis (Akwesasne), Six Nations Reserve; Tonawanda; and Tuscarora.

Project Aides:

Consultants. Charles Gehring, of the New York State Library, Manuscripts, provided notes on Dutch manuscripts in the Livingston Family Papers at the Franklin D. Roosevelt Library. Paul Stevens, a Fellow at the McNickle Center, compiled and annotated source documents of the era of the American Revolution. Another McNickle Center Fellow, Professor Richard Haan, contributed copies of odd documents he had been collecting for ten years. Mary Ann Mayes searched William N. Fenton's files and compiled a list of cited Iroquois documents. Lieutenant Commander C. McD. Stuart, RN, searched uncalendared treaty texts at the Public Record Office of Great Britain and arranged for transmission of copies. Paul Grey, graduate student at the University of London, acted as liaison between the project staff and the Public Record Office in acquiring documents ordered by the staff. Professional indexer Elin Christianson advised on indexing procedures. Major F.E.G. Bageshawe, of Matlock, England, provided photographs of a wampum belt in private hands.

Office employees at various times included Nancy Kovitz; Peter Radke; Polly Strong, University of Chicago graduate student; Andrew Tobin, Bennington College student; Karli Erica White. Wesley Andrews arranged much of the final organization

of the archive files. The project was also helped by several students enrolled in undergraduate independent study seminars of the Association of the Colleges of the Midwest and the Great Lakes Colleges Association, whose wages were paid by the associations and the Newberry. David L. Ghere accomplished "last minute" tasks.

Volunteers included Claudette Alm; Jeanette Campanella; Lucy Caples; Herbert Furse; Ted Knutson; Nancy Kovitz; Dorothy Markowitz; Virginia Meyers; Noel O'Reilly; Mary Louise Ramsey; Mrs. Gerald Sivage. They sorted and identified the masses of documents arriving in the mails, and put them in order for editors' review.

Newberry Library staff. Special interest was maintained and special help provided by John Aubrey, Michael Kaplan, Steve Mandel, Terry Sullivan, and Michelene Fixico; and much gratitude is owed for the patience of Richard H. Brown.

Advice and information were exchanged with colleagues of the Atlas of Great Lakes Indian History project: Helen Hornbeck Tanner, Adele Hast, and Jacqueline Peterson. The members of the Conference on Iroquois Research and the American Society for Ethnohistory devoted three successive panel sessions to the project at annual meetings.

Institutions:

Special gratitude is owed to the Public Archives of Canada for its gift of copies of treaties and surrenders in its possession. Thanks must also be expressed to the Rochester [N.Y.] Museum and Science Center for its donation of photographs of its large collection of wampum belts. The University of Chicago made copyflo paper copies of microfilm at a minimal cost far below commercial prices. Research Publications sent a photographer without charge to film documents located at the Albany Institute of History and Art and at the New York State Archives in Albany. Work on the project was greatly facilitated by materials collected in research travel previous to the project and incorporated into project files. The American Philosophical Society made such research fellowship grants to Director Jennings

and Associate Director Druke. Through such generous contributions, as well as time and energy given by individuals, the project managed to stay within its budget despite its massive increase in size. When the project could not be finished within its allotted three years, the Newberry Library financed it to completion.

Thanks are due to each repository, publication, or individual source of materials listed below which made available copies of materials in its collections. together they have made this publication possible.

Sources of Manuscripts

Albany County Clerk's Office, Albany, N.Y.

Albany Institute of History and Art, McKinney Library, Albany, N.Y

American Antiquarian Society, Worcester, Ma.

American Philosophical Society Library, Philadelphia, Pa.

Les Archives Nationales, Paris, France. Copies obtained from microfilm at the Public Archives of Canada, Ottawa, Ontario.

Archives of Ontario, Toronto, Ontario, Canada.

Archives of the Moravian Church, Bethlehem, Pa. Copies obtained from microfilm published by Research Publications, Woodbridge, Ct.

British Library, London, England. Copies of Amherst, Bouquet and Haldimand Papers obtained from microfilm published by World Publications, Ltd., London, England.

Buffalo and Erie County Historical Society, Buffalo, N.Y.

Burgerbibliotheck, Berne, Switzerland. Burgerbibliotheck should be informed when material in its collections is published.

Burke Library, Hamilton College, Clinton, N.Y. Samuel Kirkland Papers.

Carnegie Library of Pittsburgh, Pennsylvania Division, Pittsburgh, Pa. George Morgan Letterbooks.

Clements Library, University of Michigan, Ann Arbor, Mich. Permission to reproduce or publish material must be obtained from the Clements Library.

Colonial Williamsburg Foundation, Williamsburg, Pa.

Commonwealth of Pennsylvania. SEE Pennsylvania Historical and Museum Commission, Division of Land Records.

Connecticut Historical Society, Manuscripts Collection, Hartford,

Connecticut State Library, Hartford, Ct. Material may not be reproduced or published without permission of the Connecticut State Library.

Department of Indian and Northern Affairs Canada. SEE Public Archives of Canada.

Detroit Public Library, Burton Historical Collection, Detroit, Mich.

Franklin D. Roosevelt Library, Hyde Park, N.Y. Livingston Family Papers, Indian Affairs are on indefinite loan from the National Archives and Records Service.

George Arents Library for Special Collections, Syracuse University, Syracuse, N.Y.

Haldimand-Norfolk Regional Museum, Cayuga, Ontario, Canada.

Hamilton College Library. SEE Burke Library.

Haverford College Library, Haverford, Pa. Quaker Collection.

Historical Society of Pennsylvania, Philadelphia, Pa.

Huntington Free Library and Reading Room, Bronx, N.Y. Depository for the Museum of the American Indian, Heye Foundation.

Huntington Library, San Marino, Ca.

Indiana Historical Society Library, Indianapolis, In.

Kansas State Historical Society, Topeka, Kansas.

Library Company of Philadelphia. Collections are housed at the Historical Society of Pennsylvania, Philadelphia, Pa.

Library of Congress, Manuscripts, Washington, D.C.

Maryland Historical Society, Baltimore, Md. Copies obtained from microfilm published by Scholarly Resources, Inc., Wilmington, Del.

Massachusetts Archives, Secretary of State, Division of Archives, Boston, Ma.

Massachusetts Historical Society, Boston, Ma.

Missouri Historical Society, St. Louis, Mo.

National Archives and Records Service, Washington, D.C. Diplomatic Branch, Legislative and Natural Resources Branch.

Neville Public Museum, Green Bay, Wi.

New Hampshire Historical Society, Concord, N.H.

New Jersey Historical Society, Newark, N.J.

New York, State of. SEE State of New York.

New York Historical Association, Cooperstown, N.Y.

New-York Historical Society, New York, N.Y. Material published courtesy of The New-York Historical Society.

New York Public Library, Rare Books and Manuscripts Division, Astor, Lenox, and Tilden Foundations, New York, N.Y.

New York State Archives, Albany, N.Y., State Education Department, Albany, N.Y.

New York State Library, Albany, N.Y. No further reproduction of documents is allowed without written permission from the New York State Library.

Newberry Library, Chicago, Il.

Niagara County Clerk's Office, Lockport, N.Y.

North Carolina Department of Cultural Resources, Archives and Records Section, Division of Archives and History, Raleigh, N.C.

North Carolina State Archives. SEE North Carolina Department of Cultural Resources, Archives and Records Section, Division of Archives and History.

Ontario County Historical Society Museum, Canadaigua, N.Y.

Penfield Library, State University of New York, Oswego, N.Y.

Pennsylvania Historical and Museum Commission, Harrisburg, Pa. Division of Archives and Manuscripts Division of Land Records.

Public Archives of Canada, Ottawa, Ontario. Federal Archives Division, Manuscripts Division, Map Collection. Records in the Department of Indian and Northern Affairs, Canada, Ottawa, Ontario are under the auspices of the Public Archives of Canada.

Public Record Office, Kew, England.

Scottish Record Office, Edinburgh, Scotland. The Dalhousie Papers at the Scottish Record Office may not be cited, reproduced, or published without written permission of the Earl of Dalhousie, Brechin Castle, Angus, Scotland.

Smithsonian Institution, Washington, D.C.

State Historical Society of Wisconsin, Madison, Wi. Archives Division.

State of New York, Department of State, Albany, N.Y. Indian Treaties.

State of North Carolina. SEE North Carolina Department of Cultural Resources.

State University of New York at Oswego. SEE Penfield Library.

Syracuse University. SEE George Arents Library for Special Collections.

Thomas Gilcrease Institute of American History and Art, Tulsa, Ok.

Union of Ontario Indians, Toronto, Ontario, Canada.

University of Tulsa Library, Tulsa, Ok.

Vassar College Library, Poughkeepsie, N.Y.

Vermont Historical Society, Montpelier, Vt.

Virginia Historical Society, Richmond, Va.

Virginia State Library, Richmond, Va.

Printed Material

An Abridgement of the Indian Affairs Contained in Four Volumes, Transacted in the Colony of New York, from the year 1678 to the year 1751, by Peter Wraxall. Ed. Charles Howard McIlwain (Cambridge, Mass.: Harvard University Press, 1915).

An Account of Conferences, and Treaties Made, Between Major-General Sir William Johnson, Bart, and the Chief Sachems and Warriours of the Indian Nations in North America at Fort Johnson, in the Colony of New York, in the Years 1755 and 1756. . . (London: A. Millar, 1756).

Account of Journey to Attend Treaty at Sandusky, by Jacob Lindley. Extract. SEE Friends Miscellany.

American Archives: Consisting of a Collection of Authentick Records, State Papers, Debates, and Letters and Other Notices of Publick Affairs, the Whole Forming a Documentary History of the Origin and Progress of the North American Colonies. Ed. Peter Force. 9 vols. (Prepared and published under authority of an act of Congress, Washington, D.C., 1837-1853).

American Historical Record, and Repertory of Notes and Queries Concerning the History and Antiquities of America and Biography of Americans. Ed. Benson J. Lossing. Vol. 2, No. 13. January 1873. (Philadelphia: Chase and Town, Publishers, 1873).

American State Papers. Indian Affairs. 2 vols. (Washington: Duff Green, 1832-1834).

The British Invasion from the North, the Campaigns of Generals Carleton and Burgoyne from Canada, 1776-1777, with the Journal of Lieut. William Digby of the 53rd, or Shopshire Regiment of Foot, by James Phinney Baxter. (Albany, N.Y.: Joel Munsell's Sons, 1887).

The Cadwallader Colden Papers. SEE The Letters and Papers of Cadwallader Colden.

Calendar of State Papers. Colonial Series. America and West Indies. Ed. W. Noel Sainsbury et al., (London: H.M. Stationary Office, 1860-).

Collections of the Maine Historical Society. 10 vols. [Proceedings of treaty at Deerfield, 27 Aug-1 Sept 1735. Vol. 4, pt. 6, pp. 123-144 (1856).] (Portland: Maine Historical Society, 1831-1906).

Collections on the History of Albany, New York, from its Discovery to the Present Time, with Notices of its Public Institutions, and biographical Sketches of Citizens Deceased. Ed. Joel Munsell. (Albany, N.Y.: J. Munsell, 1871).

Congressional Series Set. SEE Serial Set of Congressional Documents.

The Correspondence of Lieutenant-Governor John Graves Simcoe, with Allied Documents Relating to His Administration of the Government of Upper Canada. Ed. E.A. Cruikshank. 5 vols. (Toronto: Ontario Historical Society, 1923-1930).

Court Minutes of Rensselaerswyck 1648-1652. Trans. and ed. A.J.F. van Laer. (Albany, N.Y.: The University of the State of New York, 1922).

Découvertes et établissements des Francais dans l'ouest et dans le sud de l'Amerique Septentrionale (1614-1754): Memoires et documents originaux recueillis et publiés par Pierre Margry. Ed. Pierre Margry. (Paris: D. Jouaust, 1876-1886).

Der Inhalt Von Den Vershiedener Conferentzen, Welche Mit Den Indianern Gehalten Worden Zu Eston, In Dem Monath July und August 1757. (Germanton, Grdruckt: Christopher Saur, 1757). A copy of this printed source is in The Huntington Library, San Marino, Ca.

Doc.Hist.N.Y. SEE Documentary History of the State of New York.

Documentary History of the State of New York. Ed. Edmund B. O'Callaghan. 4 vols. (Albany: Weed, Parsons, 1849-1851). Folio edition, plus quarto edition, each with different pagination.

Documents of the American Revolution, 1770-1783 (Colonial Office Series). Ed. K.G. Davies. 21 vols. (Dublin, Ireland Irish Academic University Press...)

Documents Relative to the Colonial History of the State of New York; Procured in Holland, England and France by John P. Brodhead. Ed. Edmund B. O'Callaghan. 15 vols. (Albany: Weed, Parsons, 1853-1887).

Early Records of the City and County of Albany; and Colony of Rensselaerswyck (1656-1675). Trans. and ed. J. Pearson. (Albany: J. Munsell, 1869).

Early Western Travels 1748-1846. Ed. Reuben Gold Thwaites. (Cleveland: A.H. Clark, 1904-1907).

Extracts from the Journal of the Commissioners of the United States, United States Commissioners Appointed to hold a treaty at Sandusky 1793. Photostatic copy, Newberry Library, Chicago, Il., Graff Collection 5086.

Friendly Association for Regaining and Preserving Peace with the Indians by Pacific Measures. (Philadelphia: B. Franklin and D. Hall, 1757).

Friends Miscellany. [Account of Journey to Attend Treaty at Sandusky, by Jacob Lindley. Extract.] (Philadelphia: Society of Friends, 1832).

George Croghan's Journal of His Trip to Detroit in 1767. Ed. Howard H. Peckham. (Ann Arbor: University of Michigan Press, 1939).

Hadden's Journal and Orderly Books: A Journal Kept in Canada and Upon Burgoyne's Campaign in 1776 and 1777. By James M. Hadden. Ed. Horatio Rodgers. (Albany: J. Munsell's Sons, 1884).

Histoire de l'Amerique Septentrionale, par M. de Bacqueville de la Potherie. M. de Bacqueville de la Potherie. (Paris: Jean-Luc Nion and Fracois Didot, 1722).

Histoire et description générale de la Nouvelle France: avec le journal historique d'un voyage fait par ordre du Roi dans l'Amerique Septentionale par le P. de Charlevoix. P. de Charlevoix. (Paris: Nyon, 1744).

History of Hartwick Seminary. By Schmitthenner. Unpublished(?) work in the New York Metropolitan Synod archives of the Lutheran Church in America in Metropolitan New York. [Contains photostat of a deed pertaining to land obtained from Indians.]

History of the Commonwealth of Kentucky. By Mann Butler. (Louisville, Kentucky: Wilcox, Dickerman, and Co., 1834).

History of the Indians of the Five Nations of Canada. By Cadwallader Colden. (London: Printed for J. Whiston, et. al., 1750).

A History of Wilkes-Barre, Luzerne County Pennsylvania from Its First Beginnings to the Present Time; Including Chapters of Newly Discovered early Wyoming Valley History, Together with Many Biographical Sketches and Much Geneaological Material. By Oscar J. Harvey. 2 vols. (Wilkes-Barre, Pa.: Raeder, 1909).

Indian Historian. [Tawagonshi: Beginning of the Treaty Era. Vol. 1, Number 3, pp. 22-26. Summer 1968.] (San Francisco, Ca., 1968).

Indian Treaties Ratified at the Call Sessions of 1837-38 and 1839. Oneidas at Green Bay. (Washington, 1839). A copy of this printed material is in Special Collections at the Newberry Library, Chicago, Il.

Jefferson Papers. SEE The Papers of Thomas Jefferson.

Jesuit Relations and Allied Documents: Travel and Explorations of the Jesuit Missionaries, in New France, 1610-1791; the Original French, Latin, and Italian Texts, with English Translations and Notes. Ed. Reuben G. Thwaites. 73 vols. (Cleveland: The Burrows Brothers, 1896-1901).

Jésuites. Abbreviation for Un Collège de Jésuites aux XVIIe and XVIIIe Siècles: Le Collège Henri IV de la Fleche le Mans. By Rochemonteix. 4 vols. [Lettre à un Pere Missionaire de Chine. Jean de Lamberville, Paris, 23 Jan 1695. Trans. and presented from vol. 3, pp. 628-630 of Jésuites by Reuben G. Thwaites, ed. in vol. 64, pp. 238-259 of Jesuit Relations and Allied Documents.] 4 vols. (Leguicheux, 1889).

Journal of Isaac Norris During Trip to Albany in 1745, and an Accout of Treaty Held There in October 1745. By Isaac Norris. Ed. and published by J.P. Norris. (Philadelphia: Privately printed, Hawthorn Press, 1867). A copy of this printed material is in the Newberry Library, Chicago, Il., Ayer Collection.

Journal of Nicolas Cresswell, 1774-1777. By Nicolas Cresswell. (New York: L. MacVeagh, 1924).

The Journals of Samuel Kirkland. Ed. Walter Pilkington. (Clinton, N.Y.: Hamilton College, 1980).

Journals of the Continental Congress, 1774-1789. Ed. Library of Congress. 34 vols. (Washington: Government Printing Office, 1904-1937).

Journey to the Land of Eden and Other Tracts, History of the Dividing Line and Other Tracts from the Papers of William Byrd. (Richmond, Va., 1866).

The Letters and Papers of Cadwallader Colden. In Collections of the New York Historical Society. (New York, N.Y.: New-York Historical Society, 1916-).

Letters of Members of the Continental Congress. Ed. Edmund C. Burnett. 8 vols. Publications No. 299. Papers of the Division of Historical Research, Carnegie Institution of Washington. (Washington, D.C.: Carnegie Institution of Washington, 1921-1936).

The Livingston Indian Records, 1661-1723. By Lawrence H. Leder. (Gettysburg, Pa.: Pennsylvania Historical Association, 1956).

Massachusetts Historical Society Collections. 10 vols. [Witham Marshe's Journal of Treaty at Lancaster, 1744. In Vol. 7, pp. 171-201.] (Boston, Ma.: Massachusetts Historical Society, 1831-1906).

Memoir of Lieut. Col. Tench Tilghman, Secretary and Aid to Washington, Together With an Appendix, Containing Revolutionary Journals and Letters, Hitherto Unpublished. . . Ed. Samuel Alexander Harrison. (Albany: J. Munsell, 1876).

Message from the President of the United States, Transmittiing a Treaty, as Amended by the Senate, and Negotiated with the New York Indians. 25th Congress (Confidential D), 3rd Session. (Washington, D.C.: Blair and Rives, Printers).

The Minute Book of the Committee of Safety of Tryon County, the Old New York Frontier . . . Ed. Howard J. Hanson and Samuel L. Frey. (New York: Dodd, Mead, and Company, 1905).

Minutes of the Court of Albany, Rensselaerswyck and Schenectady, 1668-1685. . . Being a Continuation of the Minutes of the Court at Fort Orange and Beverwyck. Ed. and trans. A.J.F. Van Laer. 3 vols. (Albany, N.Y.: University of the State of New York, 1926-1932).

Minutes of the Court at Fort Orange and Beverwyck, 1652-1656. Ed. and trans. A.J.F. Van Laer. 2 vols. (Albany, N.Y.: University of the State of New York, 1920).

Minutes of the Court of Rensselaerswyck, 1648-1652. Ed. and trans. A.J.F. Van Laer. (Albany, N.Y.: University of the State of New York, 1922).

Minutes of the Executive Council of the Province of New York, Albany. Ed. Victor Hugo Paltsits. 2 vols. (Albany, N.Y.: University of the State of New York, 1910-).

Minutes of the Provincial Council of Pennsylvania from the Organization to the Termination of the Proprietary Government, March 10, 1682 to September 27, 1775. Ed. Samuel Hazard. 16 vols. (Harrisburg, Pa.: Theophilus Fenn, 1838-1853).

Narrative of the Mission of the United Brethren Among the Delaware and the Mohegan Indians, from Its Commencement, in the Year 1740, to the Close of the Year 1808. By John Heckewelder. (Philadelphia, Pa.: M'Carty and Davis, 1820).

Narratives of New Netherland 1609-1664. Ed. J. Franklin Jameson. (New York: Charles Scribner's Sons, 1909).

The New Regime 1765-1767, British Series. Ed. C.W. Alvord and C.E. Carter. In Collections of the Illinois State Historical Library, vol. 2. (Springfield, Il.: Illinois State Historical Library, 1916).

New Voyages to North-America by the Baron de Lahontan. Reprinted from the English Edition of 1703, with Facsimiles of Original Title Pages, Maps, and Illustrations and the Addition of Introduction, Notes, and Index. Ed. Reuben G. Thwaites. 2 vols. (Originally published 1905. Reprinted New York: Lenox Hill Publishing and Distributing Company [Burt Franklin], 1970).

N.Y.Col.Docs. SEE Documents Relative to the Colonial History of the State of New York.

Ohio Archaeological and Historical Publications. [Account of the Harrison-Tarhe Peace Conference. Reprinted as It Appeared in an Issue of 'The Freeman's Chronicle' of 25 June 1813.] Vol. 14, pp. 121-131. (Columbus: Ohio Historical Society).

The Olden Time. Ed. Neville B. Craig. 2 vols. (Pittsburg, Pa.: J.W. Cook, 1846-1848).

Our Revolutionary Forefathers, the Letters of Francois Marquis de Barbé-Marbois, 1779-1785. Ed. Eugene Parker Chase. (New York: Duffield and Company, 1929).

The Papers of Benjamin Franklin. Ed. Leonard W. Labaree et al. 20 Vols. (New Haven: Yale University Press, 1959-).

The Papers of Thomas Jefferson. Ed. Julian P. Boyd. Vols. (Princeton, N.J.: Princeton University Press).

Penn.Arch. Abbreviation for Pennsylvania Archives. Ed. Samuel Hazard, et al. 138 vols. (Philadelphia: Joseph Severns; Harrisburg: Commonwealth of Pennsylvania, 1852-1949).

Penn.Prov.Coun.Min. SEE Minutes of the Provincial Council of Pennsylvania . . .

Private Papers of John, Earl of Sandwich. Ed. G.R. Barnes and J.H. Owen. (London: Navy Records Society, 1832).

Proceedings of the Commissioners of Indian Affairs, Appointed by Law for the Extinguishment of Indian Titles in the State of New York. Introduction and notes by Franklin B. Hough. 2 vols. (Albany, N.Y.: J. Munsell, 1861).

Publications of the North Carolina Historical Commission. [Christoph Von Graffenreid's Account of the Founding of New Bern. Edited with an Historical Introduction and and English Translation by Vincent H. Todd.] (Raleigh, N.C.: Edwards and Broughton Printing Co., State Printers, 1920).

Public Papers of Daniel D. Tompkins, Governor of New York, 1807-1817. 3 vols. (Albany and New York: Wynkoop, Hallenbeck, and Crawford, 1898-1902).

Public Papers of George Clinton, First Governor of New York, 1777-1795, 1801-1804. Introduction by Hugh Hastings. 10 vols. (Albany and New York: Wynkoop, Hallenbeck, and Crawford, 1899-1910).

Public Speeches, Delivered at the Village of Buffalo, on the 6th and 8th Days of July, 1812 by Hon. Erastus Granger, Indian Agent, and Red Jacket, One of the Principal Chiefs and Speakers of the Seneca Nation, Respecting the Part the Six Nations Would Take in the Present War Against Great Britain. (Buffalo: Printed and sold by S.H. and H.A. Salisbury, 1812). A copy of this printed material is at the New York State Library, Albany, N.Y.

Publications of the Buffalo Historical Society. Ed. Frank H. Severance. Buffalo, N.Y.: The Peter Paul Book Company, 1896).

Red and White on the New York Frontier, A Struggle for Survival: Insights from the Papers of Erastus Granger, Indian Agent 1807-1819. Ed. Charles M. Snyder. Harrison, N.Y.: Harbor Hill Books, 1978).

Relation de ce qui s'est passé de plus remarquable . . .; Relation de ce qui s'est passé en la Nouvelle France . . .; and Relation de ce qui s'est passé en la mission. . . These citations are to the original Jesuit Relations. Bibliographical detail is given with each appropriate entry in the headnotes and calendar.

Report of a Committee of the United States Continental Congress, Assembled 15 October 1783. A copy of this printed material is at the Newberry Library, Special Collections, Chicago, Il.

Report of the Commissioners Appointed by the Governor on the Claim of the Iroquois Indians, Made to the Legislature November 3, 1855. By J.M. Hotchkiss. (Montpelier, Vt.: Printed by E.P. Walton, Jr., 1855). A copy of this printed material is at the Vermont State Historical Society, Montpelier, Vt.

Report on the Claim of the Iroquois Indians upon the State of Vermont for Their 'Hunting Ground'. By Timothy P. Redfield. (Montpelier, Vt.: E.P. Walton, Jr., 1854). A copy of this printed material is at the Vermont State Historical Society.

Royal Gazette. Fredericton, New Brunswick, Canada, 17 July 1839.

Samson Occum and the Christian Indians of New England. By William DeLoss Love. (Boston and Chicago: Pilgrim Press, 1899).

Serial Set of Congressional Documents. Publication of the U.S. Government, beginning with the 15th Congress, 1817. A reference guide is available in the form of Steven L. Johnson's Guide to American Indian Documents in the Congressional Serial Set: 1817-1899, Library of American Indian Affairs, (New York: Clearwater Publishers, 1977).

Simcoe Papers. SEE The Correspondence of Lieutenant Governor John Graves Simcoe. . .

Sir William Johnson Papers. Abbreviation for The Papers of Sir William Johnson. Ed. James Sullivan, et al. 14 vols. (Albany, N.Y.: University of the State of New York, 1921-1965).

The Statutes at Large of the Provisional Government of the Confederate States of America. Ed. James Matthews. (Richmond, Va.: R.M. Smith, 1864).

Treaties and Surrenders from 1680 to 1903. Also known as Indian Treaties and Surrenders from 1860 to 1903. 2 vols. (Ottawa, Ontario: Queen's Printer, 1905-1912).

[The United States and the Indians: A Collection of Congressional Documents Relating to the Indians, 11th Congress- , 1810-]. United States Congress, 29th Congress, 2nd Session, Senate Report. (Washington, D.C.: Government Printing Office, 1810-). Report 156. A copy of this printed material is at the Newberry Library, Special Collections, Chicago, Il.

Van Rensselaer Bowier Manuscripts, Being Letters of Kilianen Van Rensselaer, 1630-1643, and Other Documents Relating to the Colony at Rensselaerswyck. Ed. A.J.F. Van Laer. (Albany: University of the State of New York, 1908).

Voyages de la Nouvelle France Occidentale, dicte Canada, faits par le Sr. de Champlain Xainctongeois, Capitaine pour le Roy en la Marine de Ponant, et toutes les descouvertes qu'il a faites en ce pais depuis l'an 1603, jusques l'an 1629. (Paris: Pierre Le-Mur, 1632).

Washington Irvine Correspondence. Ed. C.W. Butterfield. (Madison, Wisc., 1882).

William and Mary Quarterly. [Catastrophe in the Wilderness: New Light on the Canada Expedition of 1709, by Bruce T. McCully. Third Series, Vol. 11 (October 1954)]. (Williamsburg, Va.: Institute of Early American History and Culture, 1954).

The Writings of James Madison Comprising His Public Papers and His Private Correspondence, Including Numerous Letters and Documents Now for the First Time Printed. Ed. Gaillard Hunt. 9 vols. (New York: G.P. Putnam's Sons, 1900-1910).

The Writings of James Monroe Including a Collection of His Public and Private Papers and Correspondence Now For the First Time Printed. Ed. Stanislaus Murray Hamilton. 7 vols. (New York: G.P. Putnam's Sons, 1898-1903).

INDIVIDUAL TREATY PROCEEDINGS ARE NOT LISTED ABOVE BECAUSE FULL BIBLIOGRAPHIC INFORMATION ABOUT EACH IS GIVEN IN THE APPROPRIATE HEADNOTE OR CALENDAR ENTRY. FOR A GENERAL REFERENCE TO THIS MATERIAL, CHECK HENRY F. DEPUY'S A BIBLIOGRAPHY OF THE ENGLISH COLONIAL TREATIES WITH THE AMERICAN INDIANS, INCLUDING A SYNOPSIS OF EACH TREATY. (PRINTED FOR THE LENOX CLUB, 1917).

Sources of Wampum Belts

American Museum of Natural History, New York, N.Y.

American Philosophical Society Library, Philadelphia, Pa. Photograph of belts.

British Museum. SEE Museum of Mankind.

Buffalo Museum of Science, Buffalo, N.Y.

Clements Library, University of Michigan, Ann Arbor, Michigan.

Etnografiska Museet, Göteborg, Sweden.

Field Museum of Natural History, Chicago, Il.

McCord Museum, McGill University, Montreal, Quebec, Canada.

Merseyside County Museums, Liverpool, England.

Museum für Völkerkunde, Hamburg, Germany.

Museum für Völkerkunde, Vienna, Austria.

Museum of Mankind, British Museum, London, England.

Museum of the American Indian, Heye Foundation, New York, N.Y.

National Museum of Man, National Museums of Canada, Ottawa, Ontario.

New York State Museum, Albany, N.Y.

Onondaga Historical Association, Syracuse, N.Y.

Ontario County Historical Society Museum, Canandaigua, N.Y.

Peabody Museum, Salem, Ma.

Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, Ma.

Rochester Museum and Science Center, Rochester, N.Y. Courtesy of the Research Division.

Royal Ontario Museum, Toronto, Ontario, Canada.

Ste-Marie Among the Hurons, Midland, Ontario, Canada.

Seneca Iroquois National Museum, Salamanca, N.Y.

Smithsonian Institution, Museum of Natural History, National Museum of Man, Washington, D.C.

Smithsonian Institution, National Anthropological Archives, Washington, D.C. Photographs of wampum belts.

The University Museum, University of Pennsylvania, Philadelphia, Pa.

Volkerkundiche Sammlungen der Stadt Mannheim, Mannheim, Germany.

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Memorandum of Treaties &c with the Cayuga Indians

Hough's Indian Treaties pp 250, 251, 252
Fort Schuyler 21 Sep 1788
Kirkland's instructions about strip of land between Cayugas & Senecas

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pp 301-311
Treaty at Albany 25 July 1789 -
1st 100 miles square reservation
2 - Skaniatare reservation
3 - 1 M Sq. Cayuga Ferry, + 16,000 a for Reservation
320 a Kashong to Powder
$500 Cash down $1625 1st June at Fort Schuyler
$500 annuity annually 1st June

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p 356 -
Letter 10 Dec 1789 - from Big Tree to Gov -
Boundary line b. Cayugas & Senecas

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p 428-430 Albany July 25, 1789
receipt of $500 annuity each year $1,000 as benevolence
from treaty ratified and to all the lands lying
west of the line of Commonwealth State of N.Y. to the
"Commonwealth of Mass" &c

Treaty at Cayuga Ferry 27 July 1795
Cession of all lands including Seneca
except Residence Reservation 2 miles Square
Mine Reservation 1 mile square + Fish Carries
1 M Sq. at Canaga
$1800 cash and $1800 annuity annually 1 June

Deed 30 May 1807 conveys Residence Reservation
2 M Sq. + Mine reserve 1 M sq. $4,800
See Session Laws Chap 72 March 27, 1807 -
Fish Carries - Treaty 1795 State resumes possession

634586

an to pay net income – 1796 commuted
to $50 annuity (6% on about 1835) – 1841
law passed to pay principal & annuity
extinguished –

Press of Treaties
with Chippewas

THE NEW YORK PUBLIC LIBRARY 1913

Treaties &c with Cayuga Indians

Hough's Indian Treaties p 250, 251, 252

Mr Kirkland receives written instructions to go to the Cayugas and invite them to treaty - "As a small part of the Lands of "the Senecas is supposed to lie east of the Line of Cession "to Massachusetts, it is the wish of the Commissioners "that the Chiefs of the Tribes connected with the Cayugas "may be informed of the nature of our settlement "with the Oneidas and Onondagoes, and that a sufficient "number of the Chiefs of such Tribes to transact this "business should attend with the Cayuga Chiefs; but "as the latter object is small we cannot be justified "in putting the State to any considerable Expence to "procure the attendance of the Senecas." × × ×
Fort Schuyler 21st Sept 1788.

Houghs Treaties pages 306 - 311.
Cession of the Cayugas, at Albany 25, February 1789, of all their lands, except.
1st The large reservation at north end and both sides of Cayuga lake - 100 square miles.
2d Reservation at Skayes (Waterloo)
3d Reservations - 1 mile square at Cayuga ferry & 16000 acres at present Geneva to Peter Ryckman. 320 acres on Kashong Creek to Joseph Poudre.

~~[illegible]~~

[illegible]

Consideration. $500 cash down – $1625 on 1st June at Fort Schuyler – $500 annuity on 1st June and annually thereafter

Houghs Treaties p 336.

Letter to Governor, Kanadasegea 10 Dec. 1789 from, Kalondowanea alias Big Tree & Sagoyadyastha informing him of change of boundary between Cayugas & Senecas

"We formerly claimed a small tract of land above "Newtown on the Tioga, and the Cayugas claimed "ancient tradition claimed a tract to Seneca lake "Ontario west of the line of Mr Phelps's purchase "We the Senecas with the Cayugas taking this "matter into consideration at our council held "at Buffalo Creek last spring mutually and "unanimously agreed that Mr Phelps's east "line should be the boundary line between "us. We Senecas relinquished all claims to any "lands east of the said line, and the Cayugas "relinquished all their former pretensions to "any lands west of said line."

~~Genesee of Williams~~

Genesee, N. Y.

Houghs Treaties p 428, 429, 430

Treaty at Fort Stanwix 22d June 1790. The treaty at Albany Feb 25, 1789 ratified and confirmed –
Consideration. the Receipt of the $500 annuity acknowledged, also $1,000 as a benevolence –

"And we the said Cayugas do further hereby grant and "release to the People of the State of New York all our "right, interest and claim in and to all the lands "lying east of the line of Cession by the State of New "York to the commonwealth of Massachusetts except "the Lands mentioned in the said Deed of "Cession hereunto annexed to be reserved to us the "Cayugas and our posterity."

This completely separate the lands of the Indians from and vested them in the People and [illegible]

Treaty at Cayuga Ferry 27 July 1795. as well
Cayugas sell and cede to New York "the lands bordering "on and adjacent to the Cayuga lake commonly called the "Cayuga Reservation as the lands at Scawyace and "elsewhere heretofore or now appertaining to the said "Nation" × ×

except ×× "Forever, the People of the State of New York "reserve to the Cayuga Nation and to their posterity forever "for their own use and occupation but not to be "leased or in any other manner aliened or disposed

"of to others unless by the express consent of the Legislature
"of the said State a certain tract of land part of the
"reservation aforesaid of two miles square at such
"place as the same shall be run out and marked
"by a surveyor &c &c

Also 1 mile square & the mine within the same if any be
also 1 mile square at Cano Cannogai for the use
"of an Indian sachem of the said Nation called Fish
"Carrier and for the use of his posterity forever under the
"restrictions aforesaid which said last piece of land
"shall be leased by the People of the State of New
"York for such term and on such conditions as the
"Legislature thereof shall direct and the money
"annually arising therefrom shall be paid unto the
"said Fish Carrier or his posterity" &c x x x

Consideration — $1800 Cash down — Annuity of $1800
first payment on 1st June next

Provisions as to paying this $1800 and the previous $500 =
$2300 in all, annuity

Deed, 27 July Conveys Residence reservation of 2 miles square and mine reservation of 1 mile square to New York - Consideration $4,500 in Cash - 31 th May, 1807

Session Laws Chap 72 March 21, 1807 in relation to the purchase of the above

Fish Carriers Reservation - Treaty of 1789 - 1 mile square - Confirmed by treaty of 1790. Treaty of 1795 the State resumed possession of the land and agreed to pay the net income to him - In 1816 this was commuted to a $31 annuity which was 6 % on about $535 In 1841 a law was passed directing to pay the principal of the annuity due Cayuga Chief Fish Carrier, which was done and the annuity extinguished.

The Reservation was 1 mile square at Canoga.

To the Senate and House of Representatives of the United States.

The undersigned Chiefs and Warriors of the Tuscarora Tribe of Indians in the State of New York respectfully represent that they are ~~deeply~~ anxious for the speedy fulfilment of the provisions of the treaty recently made with the Seneca Nation of Indians by the Government, and particularly that an appropriation should be made during the present session of Congress which will enable them to remove to their new home at the West. Relying upon the prompt faithful execution of the treaty ~~among our tribe~~ by the Government and upon a guarantee which they understand have been given by the proper Department we have supposed that we should remove to the West the ensuing summer. Further expectations of our tribe have made ~~from~~ preparations for a change of residence. We wish to contradict in the most positive and solemn manner the charge so frequently made in relation to us that we have no expectation of a change of residence: that while we profess to be favorable to the Emigration of the Indians we are to remain in the State of New York while those opposed to Emigration only are to go to the West. These charges

are not tied. We are really and truly anxious to emigrate. We do not intend to remain upon our old grounds. The sooner we can reach our new home the better. There is much to be done this fall for the good of our people and ~~the~~ we wish to begin the work without delay.

Br Petition of
Tuscarora
Jany. 1841

Indian Office. Toronto
5th January. 1841

To
James Smoke Johnson
Peter Green
Peter Isthearrier
Thomas Echo
and others forming the
Deputation of Mohawk
Chiefs.

The Lieutenant Governor has directed me to inform the Deputation of Chiefs from the Grand River, that he has maturely considered their speech to him and particularly that important part of it which relates to the occupancy of their lands by white people without authority

The Lieutenant Governor is of opinion that very great difficulties will be found in any medium course between the expulsion of all intruders or non interference. Experience has shewn that with all the anxiety to do justice and with all the care exercised to prevent injury to Indian interests, the interference of the Indians themselves continually has created new difficulties, to which there seems to be no end, and yet the Government is expected to compromise its own character by adjudging what is rightly and wisely recommended by the Indians or what on the other hand may be capriciously or correctly counselled by them.

The Lieutenant Governor is of opinion that there can be no remedy found for the continuance of this unsatisfactory and embarrassing state of affairs while the lands remain the general property of the Indians, under circumstances which it is no reproach to them to say that they cannot manage the estate for the ~~government~~ general interests of the Tribes.

The Lieutenant Governor therefore considers that it would be very much for the benefit of the interests of the Indians if they surrendered into the hands of the Government the whole tract with the exception of such part of it as they may choose to occupy as

a concentrated body, so that the same may be disposed of by Government, and the Lieut Governor therefore strongly recommends that this course be adopted by them, that they immediately select a tract of sufficient extent to give each head of a family or grown up man a farm of one hundred or Two hundred acres as may be thought expedient for cultivation in the most eligible situation on the River together with a further quantity to be reserved for fire wood or other contin=gencies.

That the Indians then remove to this tract and live together as a concentrated body upon the farms assigned to them. That the residue of the tract be surrendered to Government to be disposed of for the exclusive benefit of the Indians

The Lieut: Governor is of opinion, that when the Indians are thus settled together there will be no difficulty in keeping away intruders or summarily punishing them should they persevere in committing trespasses.

The Lieut: Governor feels confident that the proceeds of the sale of the residue of the land and the timber growing upon it, will retrieve the affairs of the Six Nations Indians, as well as confer on that section of the Province a lasting benefit, by bringing into cultivation a large tract of the finest land, now not only unproductive to the Indians, but absolutely useless to them in every point of view, and which is considered by the public a bar to the improvement and prosperity of the Districts in which it is situated and in fact a nuisance which they have a right to call upon the Government to abate.

It is unnecessary for the

Lieutenant Governor again to express the great anxiety felt by the Queens Government to promote the interests of the Indians and to carry out such a system in the management of their affairs as may conduce to this end, and he therefore trusts that every Member of the Community will believe him when he states that if he were not firmly convinced that the plan proposed in this communication, was the most proper for adoption he would not recommend it

signed. Saml P. Jarvis
Ch S. I. Affairs

TREATY WITH THE SENECA INDIANS.

MEMORIAL

OF

BENJAMIN FERRIS,

IN BEHALF

of the four yearly meetings of Friends, of Genesee, New York, Philadelphia, and Baltimore, remonstrating against any appropriation being made to carry out the treaty with the Seneca Indians.

JANUARY 8, 1841.

Referred to the Committee on Indian Affairs.

To the House of Representatives of the United States:

The memorial of the several committees on Indian concerns, appointed by the four yearly meetings of Friends, of Genesee, New York, Philadelphia, and Baltimore,

RESPECTFULLY REPRESENTS:

That the Society of Friends, from a religious concern for the welfare of the Indians in the State of New York, have for many years been engaged in promoting their civilization and improvement. Under this concern, we have had establishments amongst them, and agents residing on some of their reservations, to instruct them in agriculture and other arts of civil life; and it is by their desire we now solicit your attention.

These reservations, being the small remnants of their once extensive territory, were, by a treaty made between the Six Nations and our Government in the year 1794, solemnly guarantied to them and their descendants as a home and inheritance forever.

As the white population of our country extended their settlements toward these reservations, they became enhanced in value, exciting the cupidity of land speculators, and urging them, by various means, to remove the Indians, in order to possess themselves of their land.

Alarmed and agitated by these movements, the Seneca and Onondaga Indians applied to our Government for its interposition and protection, in fulfilment of the guaranty stipulated in the said recited treaty. Faithful to its contract, and prompt in the performance of it, a proclamation was immediately issued by the authority of the President of the United States, under the hand of H. Dearborn, then Secretary of War, dated 17th March, 1802, strictly forbidding all persons, citizens of the United States, to disturb the said

Indians in the quiet possession of their lands; and declaring that "all lands claimed by, and secured to, the said Seneca and Onondaga Indians, by treaty, convention, deed of conveyance, or reservation, being within the limits of the United States, shall be and remain the property of the said Seneca and Onondaga Indians, forever, unless they shall voluntarily relinquish or dispose of the same."

Within the last ten years, these attempts have been renewed, and strenuous exertions made to get possession of these lands. For this purpose, no means which ingenuity could devise, or large pecuniary resources and untiring perseverance accomplish, have been unessayed. Under the operation of such powerful agents, a treaty has been procured and executed, under circumstances which we think ought to claim the serious attention of our Representatives in Congress. *That* treaty, we most surely believe, is tainted with *fraud;* and, if carried into effect, will be not only extremely oppressive to the poor defenceless Indians, but injurious to the character of our country.

The President of the United States, in his message to the Senate dated 13th January, 1840, returning this same treaty to that body, says: "That *improper means* have been employed to obtain the assent of the Seneca chiefs, *there is every reason to believe;* and I have not been able to satisfy myself that I can, consistently with the resolution of the Senate of the 11th March, 1839, cause the treaty to be carried into effect, in respect to the Seneca tribe."

The Committee of the Senate on Indian Affairs, after a long and laborious investigation of the evidence before them, and of the facts and circumstances connected with this treaty, reported (it is understood unanimously) against its ratification, on the ground that *it had not been assented to by the said Indians according to the terms of the resolution of the* 11*th June*, 1838.

The Senate finally ratified it, by the casting vote of the President—only nineteen members voting in its favor.

Although we believe there is ample evidence to prove the *fraudulent* character of this treaty, and that its execution will be grossly unjust and oppressive to the Seneca nation, yet it is far from our intention to throw the least censure on the Senate, or on any of its members. We are aware that the effects of testimony on the minds of men of unquestioned integrity are very different. Our object in soliciting the attention of the House to the subject is not to censure, but that the evidence in the case may be examined by your branch of the Legislature.

By the constitution of the United States, the treaty-making power is vested in the President and Senate. By the same constitution, no money can be drawn from the Treasury, but by appropriations made by law; and no law can be passed without the concurrence of both branches of the Legislature. Thus, over all treaties made by the President and Senate, the House of Representatives has a control, by the power it possesses, under the constitution, of withholding the means of carrying such treaties into effect. If on investigation of the treaty in question, and the circumstances attending its execution, the House shall be satisfied that it was *not fairly obtained*, or it shall believe that to enforce it would be derogatory to the character of our country, as an honorable, just, and upright nation, it may refuse to grant the supplies necessary to carry it into effect; and thus save the country from the odium that must attach to any Government that deliberately does wrong.

There is one feature in the character of this negotiation with the New York Indians which we think ought to claim the particular attention of your body, as *the guardians of the public treasure.* By that treaty, four hundred thousand dollars of *public* money, and one million eight hundred and twenty-four thousand acres of the *public* lands, are to be given to the New York Indians, as an inducement to relinquish their possessions in the State of New York, *for the benefit of the Ogden Land Company*—an association of speculators, whose stock, to a considerable extent, is understood to be held by British capitalists.

To your memorialists it appears that, under this treaty, the Government gives away a vast amount of property, without any equivalent. It may be well asked, what advantage can accrue to the public from the removal of the New York Indians? As it regards the *people* of the United States, under whose authority the treaty is said to be made, and from whose resources the means to carry it into effect are to be drawn, it may safely be answered—none. In a national point of view, it is a matter of perfect indifference whether the New York Indians remove, or do not remove. Why, then, should our Representatives appropriate such a vast amount of money and property to an object *in which the community has no interest?*

We forbear to go further into the merits of the case. We would not unnecessarily take up the time of the House. We only ask for a thorough investigation of the subject; and that, if, after such investigation, it should appear that the treaty cannot be carried into effect without injustice to an inoffending people, and an improper expenditure of the *public treasure*, the House may refuse to make any appropriation for that purpose.

Signed on behalf of the said committees:

BENJAMIN FERRIS, *Clerk.*

WASHINGTON, 1*st Mo.* 7, 1841.

Seneca 15th January 1841

To the Chiefs of the Six Nations Indians.

Being concerned by conversation with several Indians of the Six Nations since my arrival among them that my communication of the 5th January 1841 relating to the Six Nations Lands upon the Grand River is altogether misinterpreted by them I have thought it necessary to submit the following explanation of that document and of the intention of Government in order to protect the true interests of the Indians.

The Government are of opinion that it would greatly conduce to the happiness comfort and wealth of the Six Nations, if all their land with the exception of what is necessary for their own cultivation, and for fire wood, should be disposed of, so as to create a fund continually increasing for the benefit of the Six Nations and upon such a plan they are of opinion that the Income of the Six Nations can be increased by a sum varying from £3.000 to £5000 per annum.

The Government therefore in

the communication of the 5th January, but proposed to the Chiefs and Warriors that the whole tract with the exception of such part of it as they may choose to occupy as a concentrated body should be surrendered so that the same should be immediately disposed of for the benefit of the Indians, and to relieve the present embarrassed state of their affairs.

The Government were also of opinion that it would be for the benefit of the Indians and proposed in the communication of the 5th Instant, that they should remove to such Tract as should be thus reserved and set apart for their exclusive benefit, and became pledged to protect the same from every species of injury or intrusion upon the part of the white man. But in expressing thus their opinion to the Chiefs and proposing that such a reservation should be made it was by no means the intention of the Government, nor is it their intention to desire the removal of any Indians from a farm at present in his occupation, and where the Indian himself is content to remain, but they deem it advisable to secure a tract permanently for their occupation in case any of the Indians should voluntarily desire to dispose of their improvements under sanction of the Government and to remove to such reservation where a home should be secured to him apart from the interference of the white man. And I wish it now to be thoroughly understood, that it is by no means desired to remove the Indians from lands at present in their occupation, nor at any time to press such a measure upon them; but that the removal in all cases should emanate voluntarily from themselves, if at

any future period they should think it advantageous so to do. And that the White men who are now on the tract and who have almost without exception been invited and introduced into the tract by the Indians themselves should be no longer suffered to remain upon these valuable lands without paying a single shilling to the Indian funds; but the Government shall immediately interfere to compel the payment of a fair value into the funds.

It must likewise be understood that in case any Indian (upon the proposed plan) should desire to dispose of his improvement, and to remove to the Reserved Tract, no bargain can be noticed or allowed which is not in the first instance proposed as well by the purchaser as the Indian to the Department and approved of, and that any further Trespasses or intrusion of any nature whatsoever upon the Reserved tract, whether committed without or with the approbation of the Indians either singly or collectively will meet with the strongest disapprobation of the Government, and that the party offending shall be immediately removed and punished according to the law.

From a careful enquiry into the nature of the claims of the white men to the lands in their occupation, it is but too plainly apparent that they have been invited by the great majority of the Indians and that the latter have received large sums of money which they are wholly incapable of ever refunding. So far indeed from the Government receiving any compensation from the Indians, notwithstanding their repeated remonstrances and calls upon them for protection, they find every measure proposed thwarted by the repeated pretended sales of their public property, and that too not only within the last year, but of Jan-

correctly informed within the last fortnight by some of the Chiefs and Indians who have been most urgent in their remonstrances.

Under such circumstances it cannot be expected, nor would it in any manner tend to the interest of the Indians, that upwards of 2000 white persons nearly equal in number to the Indians upon the Grand River should be utterly removed from their homes, for which in some instances they have paid so dearly to individual Indians; neither justice or policy or a due regard to the Indian interests, requires or will permit of such a measure, nor can any such be expected to be approved of by me or recommended to the Government.

I am informed and believe from my own observation that the above plan proposed, meets with the approbation of the most intelligent, industrious and worthy of the Indians, and I am fully satisfied that their true interest requires its adoption.

Those who are opposed to it must therefore reflect that any private division in the Council from whatever cause proceeding cannot prevent the Government from interfering in seconding the wishes of the industrious and from promoting the wealth and prosperity of the Nations as a body.

In case any further division should take place in Council and by declining amicably to meet the views of Government, the Indians should continue to thwart the measures devised as most conducive to their interests, I am apprehensive the Government will be compelled however reluctantly to take into their own hands, the exclusive management of these affairs, and as Chief Superintendent it will be my duty immediately on my return to recommend

such a course, to prevent the public property of the Six Nations from being sacrificed to the avarice and rapacity of Individuals.

I have made frequent applications to the British government relating to the Stock of the Grand River Navigation Company held by the Indians, and I think I can with safety say, that measures will soon be adopted in relation to that matter advantageous to the Indians.

In conclusion I can only further assure you that if the above measures proposed had not been maturely considered and if it was not thought most calculated to promote the interests of the Six Nations; it never would have received the approbation of the government nor of myself as Head of the Department.

I therefore recommend to the Indians in Council that they approve of the government disposing for their exclusive benefit and advantage either by Lease or otherwise of all their lands, which can be made available, with the exception of the farms at present in their actual occupation and cultivation, and of 20,000 acres as a further reservation, and that the selection of that Reservation be deferred until a general Survey of the Tract, when the position the most advantageous to the general interests and peculiar wants of the Indians can be more judiciously selected.

I will merely add that I will meet the Chiefs in Council at the Onondaga Council House on Monday next at 1 o'clock to receive their answer.

signed. Saml. P. Jarvis
Ch. S. I. Affairs.

The Chiefs and Warriors of the Six Nations Indians upon the Grand River in full Council assembled at Onondaga Council House, this Eighteenth day of January in the year of our Lord One Thousand Eight hundred and forty one, having maturely considered the proposal made to them by Samuel Peters Jarvis Esquire, Chief Superintendant of Indian Affairs, contained in the annexed Documents dated the 5th & 15th January 1841 in full reliance and confidence in Her Majestys Government that they will dispose of the property of the Six Nations Indians for the sole benefit of them and their posterity for ever according to the intent and meaning of said annexed documents, and for no other purpose whatsoever, to the best of their judgment and also in full confidence and reliance upon Her Majestys Government, that they shall not sell and dispose of in fee simple any portion of that tract called the Johnson settlement, unless what is available to be sold as Town lots in the immediate neighborhood of the town of Brantford, without the assent of those Indians for whom the same was formerly reserved first being obtained, have and do hereby assent to Her Majesty's Government disposing of the land belonging and formerly reserved upon the Grand River for the Six Nations Indians for the benefit of the said Six Nations and for full and valuable consideration according to the best of their judgment so as to preserve the benefit thereof for them the said Six Nations and their posterity for ever, and for no other purpose according to the intent and meaning of said annexed documents, dated the 5th & 15 January 1841 respectively.

In testimony whereof the

Moses Walker, John Smoke Johnson, Skanawate

Tanokaritane, Peter Green, John Whitecoat, and Jacob Fish ~~being deputed~~ being deputed by the said Six Nations in full Council assembled to assent to the same in their behalf have hereto set our hands and Seals this 18th January 1841

signed. Moses Walker. (L.S.)
" John S. Johnson (L.S.)
" Ranawate his × mark (L.S.)
" Tanokaritane his × mark (L.S.)
" John Whitecoat his × mark (L.S.)
" Peter Green (L.S.)

Signed, Sealed and delivered in presence of us, being fully interpreted by Mr Jacob Martin a subscribing Witness to these presents

signed. J. Martin. S.T.D.P.
" Jas. Monteith. S.T.P.
" John W. Gwynne.

PROVINCIAL REGISTRAR'S OFFICE,
TORONTO, 28th March, 1876.

I hereby certify the within to be a true and faithful copy of the record of the original patent, as entered in Lib. C. W., Folio 71.

JOHN F. C. USHER,
Deputy Registrar of the Province of Ontario.

No. 49.

KNOW ALL MEN BY THESE PRESENTS, that we, John Sunday, Jacob Sunday, Jacob Pazhegezhick, James Sahgahnahquottwabe, Jacob Pahbewun and James Nahwahquaskum, Sachems and Chief Warriors of the Mississagua Tribe of Indians, of Kingston and the Bay of Quinté, now settled in the Township of Alnwick, in the District of Newcastle, in the Province of Upper Canada, in consideration of the trust and confidence we repose in Her Majesty Queen Victoria of Great Britain and Ireland, do hereby surrender and yield up to Her said Majesty, Her heirs and successors, all that tract of land situate in the Midland District, and long known as Wahboose Island, to hold the same to Her said Majesty, Her heirs and successors, forever, the said island containing six hundred acres, be the same more or less. And we do hereby make this surrender to Her Majesty for the purpose of enabling Her said Majesty to sell and dispose of the said island for the highest price that can be had for the same, for our benefit and advantage. And we do hereby declare our wish and desire that the money arising from the sale of the said island should be invested in good and safe Government or other securities at legal interest, which interest to be paid to us from time to time as we may require it.

IN WITNESS WHEREOF, we, the said Sachems and Principal Warriors aforesaid have hereunto set our hands and seals this fifteenth day of June, one thousand eight hundred and thirty-eight.

Signed, sealed and delivered in presence of:
CHARLES ANDERSON,
SILVESTER HURLBURT.

JOHN SUNDAY (totem) [L.S.]
JACOB SUNDAY (totem), [L.S.]
JACOB PAZHEGEZHICK (totem) [L.S.]
JAMES SAHGAHNAQUOTTWABE (totem). [L.S.]
JACOB PAHBEWUN (totem), [L.S.]
JAMES NAH-WAH-QUASH-KUM (totem). [L.S.]

No. 50.

INDIAN OFFICE, TORONTO, 5th January, 1841.

The Lieutenant Governor has directed me to inform the deputation of Chiefs from the Grand River that he has maturely considered their speech to him, and particularly that important part of it which relates to the occupation of their lands by white people without authority.

The Lieutenant Governor is of opinion that very great difficulties will be found in any medium course between the expulsion of all intruders or non-interference, as experience has shown that with all the anxiety to do justice, and with all the care exercised to prevent injury to Indian interests, the interference of the Indians themselves, continually, has created new difficulties, to which there seems to be no end, and yet the Government is expected to compromise its own character by adjudging what is right and wisely recommended by the Indians, or what, on the other hand, may be capriciously or corruptly counselled by them.

The Lieutenant Governor is of opinion that there can be no remedy found for the continuance of this unsatisfactory and embarrassing state of affairs while the

lands remain general property under circumstances which it is no reproach to the Indians to say that they cannot manage the estate for the general interests of the tribes.

The Lieutenant Governor therefore considers that it would be very much for the benefit of the interests of the Indians if they surrendered into the hands of Government the whole tract, with the exception of such part of it as they may choose to occupy as a concentrated body, so that the same may be disposed of by Government; and the Lieutenant Governor therefore strongly recommends that this course be adopted by them, that they immediately select a tract of sufficient extent to give each head of a family or grown up man a farm of one hundred or two hundred acres (as may be thought expedient), for cultivation in the most eligible situation on the river, together with a further quantity to be reserved for firewood and other contingencies; that the Indians then remove to this tract and live together as a concentrated body upon the farms assigned to them, and that the residue of the tract be surrendered to be disposed of for the exclusive benefit of the Indians.

The Lieutenant Governor is also of opinion that when the Indians are thus settled together there will be no difficulty in keeping away intruders, or summarily punishing them should they persevere in committing trespasses on their tract of land.

The Lieutenant Governor feels confident that the proceeds of the sale of the residue of the land and the timber growing upon it will retrieve the affairs of the Six Nations Indians, as well as confer on that section of the Province a lasting benefit, by bringing into cultivation a large tract of the finest description of land, which at present is not only unproductive to the Indians, but absolutely useless to them in every point of view, and which is considered by the public a bar to the improvement and prosperity of the districts in which it is situated, and in fact a nuisance which the public have a right to call upon Government to abate.

It is unnecessary for the Lieutenant Governor again to express the great anxiety felt by the Queen's Government to promote the interests of the Indians and to carry out such a system in the management of their affairs as may conduce to this end; and the Lieutenant Governor therefore trusts that every member of the community of the Six Nations Indians will believe him when he states that if he were not firmly convinced that the plan proposed in this communication was the most proper for their adoption he would not have recommended it.

SAM. P. JARVIS,
Ch. S. I. Affairs.

To

JOHN SMOKE JOHNSON,
PETER GREEN,
PETER FISHCARRIER,
THOMAS ECHO,
And others forming the deputation of Mohawk Chiefs.

SENECA, 15th January, 1841.

To the Chiefs of the Six Nation Indians:

Being convinced by conversation with several Indians of the Six Nations, since my arrival among them, that my communication to the Chiefs of the 5th January, 1841, relating to the Six Nations lands upon the Grand River is altogether misinterpreted by them, I have thought it necessary to submit the following in explanation of that document and of the intention of Government, in order to protect the true interests of the Indians.

The Government is of opinion that it would greatly conduce to the happiness, comfort and wealth of the Six Nations if all their land, with the exception of what is necessary for their own cultivation and for firewood, should be disposed of, so as to create a fund continually increasing for the benefit of the Six Nations, and upon

such a plan they are of opinion that the income of the Six Nations can be immediately increased by a sum varying from £3,000 to 5,000 per annum.

The Government, therefore, in the communication of the 5th January instant, proposed to the Chiefs and Warriors that the whole tract, with the exception of such part of is as they may choose to occupy as a concentrated body, should be surrendered, so that the same should be immediately disposed of for the benefit of the Indians, and to relieve the present embarrassed state of their affairs.

The Government were also of opinion that it would be for the benefit of the Indians, and proposed in the communication of the 5th instant, that they should remove to such tract as should be thus reserved and set apart for their exclusive benefit, and become pledged to protect the same from every species of injury or intrusion upon the part of the white man. But in expressing thus their opinion to the Chiefs and proposing that such a reservation should be made, it was by no means the intention of the Government, nor is it their intention, to desire the removal of any Indian from a farm at present in his occupation, and when the Indian himself is content to remain; but they deem it advisable to secure a tract permanently for their occupation in case any of the Indians should voluntarily desire to dispose of their improvements, under sanction of the Government, and to remove to such reservation where a home should be secured to him apart from the interference of the white man. And I wish it now to be thoroughly understood, that it is by no means desired to remove the Indians from lands at present in their occupation, nor at any time to press such a measure upon them, but that the removal in all cases should emanate voluntarily from themselves, if, at any future period, they should think it advantageous so to do, and that the white men who are now on the tract and who have almost without exception been invited and introduced into the tract by the Indians themselves, should be no longer suffered to remain upon these valuable lands without paying a single shilling to the Indian funds, but the Government shall immediately interfere to compel the payment of a fair value into the funds.

I wish it likewise to be understood, that in case any Indian (upon the proposed plan) should desire to dispose of his improvement, and to remove to the reserved tract, no bargain can be noticed or allowed which is not in the first instance proposed, as well by the purchaser as the Indian to the Department, and approved of, and that any further trespasses or intrusions, of any nature whatsoever, upon the reserved tract, whether committed without or with the approbation of the Indians, either singly or collectively, will meet with the strongest disapprobation of the Government, and that the party offending shall be immediately removed and punished according to the law.

From a careful enquiry into the nature of the claims of the white men to the lands in their occupation it is but too plainly apparent that they have been invited by the great majority of the Indians, and that the latter have received large sums of money which they are wholly incapable of ever refunding. So far, indeed, from the Government receiving any co-operation from the Indians, notwithstanding their repeated remonstrances and calls upon them for protection, they find every measure proposed thwarted by the conduct of the Indians themselves, by the repeated pretended sales of their public property, and that, too, not only within the last year, but if I am correctly informed, within the last fortnight, by some of the Chiefs and Indians who have been most urgent in their remonstrances.

Under such circumstances it cannot be expected, nor would it in any manner tend to the interests of the Indians, that upwards of 2,000 white persons nearly equal in number to the Indians upon the Grand River, should be utterly removed from their homes, for which in some instances they have paid so dearly to individual Indians; neither justice or policy, or a due regard to the Indian interests, requires or will permit of such a measure nor can any such be expected to be approved of by me or recommended to the Government.

I am informed, and believe from my own observations, that the above plan proposed meets with the approbation of the most intelligent, industrious and worthy of the Indians, and I am fully satisfied that their true interest requires its adoption.

Those who are opposed to it must therefore reflect that any private division in the Council, from whatever cause proceeding, cannot prevent the Government from interfering in seconding the wishes of the industrious and from promoting the wealth and prosperity of the Nations as a body.

In case any further divisions should take place in Council, and by declining amicably to meet the views of Government, the Indians should continue to thwart the measures devised as most conducive to their interest, I am apprehensive that the Government will be compelled, however reluctantly, to take into their own hands the exclusive management of their affairs, and as Chief Superintendent it will be my duty, immediately upon my return, to recommend such a course, to prevent the public property of the Six Nations from being sacrificed to the avarice and rapacity of individuals.

I have made frequent applications to the British Government relating to the stock in the Grand River Navigation Company held by the Indians, and I think I can with safety say that measures will be soon adopted in relation to that matter advantageous to the Indians. In conclusion, I can only further assure you, that if the above measure proposed has not been maturely considered, and if it was not thought most calculated to promote the interests of the Six Nations, it never would have received the approbation of the Government, nor of myself as head of the Department.

I therefore recommend to the Indians in Council that they approve of the Government disposing for their exclusive benefit and advantage, either by lease or otherwise, of all their lands which can be made available, with the exception of the farms at present in their actual occupation and cultivation, and of 20,000 acres as a further reservation, and that the selection of this reservation be deferred until after a general survey of the tract, when the position most advantageous to the general interests and peculiar wants of the Indians can be more judiciously selected. I will merely add that I will meet the Chiefs in Council at the Onandaga Council House on Monday next, at 1 o'clock, to receive their answer.

SAM. P. JARVIS,
Ch. S. I. Affairs.

The Chiefs and Warriors of the Six Nations Indians upon the Grand River in full Council assembled at Onandaga Council House, this eighteenth day of January, in the year of Our Lord one thousand eight hundred and forty-one, having maturely considered the proposal made to them by Samuel Peters Jarvis, Esquire, Chief Superintendent of Indian Affairs, contained in the annexed documents, dated the 5th and 15th January, 1841, in full reliance and confidence in Her Majesty's Government that they will dispose of the property of the Six Nations Indians, for the sole benefit of them and their posterity for ever, according to the intent and meaning of the said annexed documents, and for no other purpose whatsoever, to the best of their judgment, and also in full confidence and reliance upon Her Majesty's Government, that they shall not sell, or dispose of in fee simple any portion of that tract called the Johnson Settlement, unless what is available to be sold as town lots in the immediate neighbourhood of the Town of Brantford, without the assent of those Indians for whom the same was formerly reserved first being obtained, have and do hereby assent to Her Majesty's Government disposing of the land belonging and formerly reserved upon the Grand River for the Six Nations Indians, for the benefit of the said Six Nations, and for full and valuable consideration according to the best of their judgment, so as to preserve the benefit thereof for them the said Six Nations and their posterity for ever, and for no other purpose, according to the intent and meaning of said annexed documents, dated the 5th and 15th January, 1841, respectively.

In Testimony Whereof, we, Moses Walker, John Smoke Johnson, Skanawate, Kanokaretini, Peter Green, John Whitecoat and Jacob Fish, being deputed by the

said Six Nations in full Council assembled to assent to the same in their behalf, have hereto set our hands and seals this 18th January, 1841.

Signed, sealed and delivered in presence of us, being fully interpreted by Mr. Jacob Martin, a subscribing witness to these presents:

J. MARTIN, *I. I. Department,*
JAS. WINNIETT, *S.I.A.,*
JOHN W. GWYNNE.

MOSES WALKER, [L.S.]
JOHN S. JOHNSON, [L.S.]
SKANAWATE, his x mark [L.S.]
KANOKARETINI, his x mark [L.S.]
JOHN WHITECOAT, his x mark [L.S.]
PETER GREEN. [L.S.]

PROVINCIAL REGISTRAR'S OFFICE, 1st Nov., 1844.

I hereby certify that the foregoing surrender, together with the documents therein referred to of the 5th and 15th Jan., 1841, respectively, have this day been entered on the records of this office, in Lib. A, folio 241.

R. D. TUCKER,
Registrar.

No. 5.

To all to whom these presents shall come,—GREETING:

KNOW YE, that we the undersigned Chiefs of the Mohawk Nation of Indians of the Bay of Quinté have surrendered, and do hereby, on behalf of our said tribe, and with their entire consent, surrender unto Her Majesty, Her heirs and successors, all that parcel or tract of land in this Township of Tyendenaga which is known as the tract reserved to be leased, or may be otherwise described as the tract lying within the following limits, viz.: Commencing at the south-west angle of the north half (or 80-acre lot) of number twenty-eight, in the fourth concession, north of the road in the said Township of Tyendenaga; thence easterly along the centre line in the said fourth concession to the boundary of the township; thence northerly along the said boundary line to the rear of the said township; thence westerly along the boundary line between Hungerford and Tyendenaga to the north-west corner of lot number twenty-eight in the tenth concession; thence southerly along the side lines, between numbers twenty-seven and twenty-eight, through the several concessions, viz: ten, nine, eight, seven, six, five, and the north half of the fourth, to the place of beginning; in trust, with the understanding that the said parcel of land is to be disposed of to the best advantage, and the proceeds to be invested for the benefit of our tribe, as is more fully set forth in the surrender of the tract lying to the west of the above described parcel of land and now in course of sale.

Done at Tyendenaga, in the Victoria District, this fifteenth day of April, in the year of Our Lord one thousand eight hundred and forty-three.

In presence of:

SALTERN GIVINS, *Missionary,*
JOHN HILL,
SETH POWLES,
HENRY his x mark LOFT,
JOHN CULBERTSON.

BRANT his x mark BRANT, [L.S.]
POWLES CLAUS, [L.S.]
THOMAS his x mark GREEN, [L.S.]
JOHN W. HILL. [L.S.]

Chiefs.

Brantford. 20 Feb. 1841

At a meeting of the Johnston settlement Indians held at my quarters this day

Johnson a Lower Mohawk Chief said Brother: We assembled yesterday at the Mowder school house the Chiefs and Warriors of the Upper Tribes, and we agreed to stand by the proceedings agreed to by the Six Nations and the Chief Superintendant ~~of Indian Affairs~~ at the Onondaga Council house on the 18th Ultimo. We disclaim any participation in the petition drawn up by Mr Mackenzie and addressed to His Excellency the Governor General; we particularly wish that Mr Mackenzies petition should not be attended to as that petition is signed generally speaking by the Lower

Chiefs and Warriors only, and those Chiefs and Warriors have frequently before acted in opposition to the interests of the Six Nations. I address you in the name of the Upper and Lower Mohawks, the Oneidas, the Upper Cayugas (one chief present) the Tuscaroras and Onondagas (two chiefs present.) That petition states that Mr James took the Six Nations by surprise, and did not give them a sufficient time to deliberate on his proposal, that is not the case, for we had nine days altogether to deliberate on the Chief Superintendents proposals

signed. John S. Johnson.

Certified
signed. Jas Bennett. S.I.A.
" J. Martin. S.I. Dept

PETITION

OF

A NUMBER OF CITIZENS OF NEW YORK,

PRAYING

That the treaty with the Seneca Indians may not be enforced against those who are averse to emigration.

FEBRUARY 22, 1841.

Referred to the Committee on Indian Affairs, and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The undersigned, citizens of the town of Alexander, and of the State of New York, being convinced that a very large majority of the Seneca nation of Indians are decidedly averse to emigration, and have never given their assent to the treaty for the sale of their lands, as amended by the Senate, either in person or by their authorized agents; and believing that the honor, dignity, and interest of the United States do not require that treaty to be forced upon said Indians; and that, on the contrary, it would be a violation of our national faith, as virtually pledged to them by the resolution of the Senate of June 11, 1838, in which it is distinctly stated that the treaty shall not be binding until the assent of the Indians to the amendments shall be given in open council—would most respectfully petition your honorable bodies to adopt such measures as in your wisdom shall appear best adapted to sustain the honor of the United States, and prevent injustice to the Indians.

A. S. Churchill
H. R. Montgomery
W. W. Sherman
Isaac Van Wort
G. K. Benedict
Alanson Tracy
Joseph N. Perry
George King
Albert Raw
Enoch B. Waite
Asa H. Kent
Leonard Turner
C. C. Townsend
A. R. R. Butler, jr.
A. R. R. Butler, 2d
W. B. Perry
J. D. Bartlett
Curtis Hart
James R. Jackman
William Nichols
David Beckwith
Byram Moulton
O. P. J. Adams
Philip Pryer
Willard M. Smith
James Lewis
Lott Burge
Alonso Fuller

Blair & Rives, printers.

Anson Lewis
Benjamin Barney
Robert Nevitt
Ephraim Burlingame
Zenas Blodgett
Lewis Hooper
Horace Pratt
W. C. Spalding
John Stanard
Seth Blossom, jr.
Eames M. Allen
Henry Markher
John G. Tisdale
Aid Garfield
T. M. Houghton
A. Stilson
Anson Howard
W. J. Knight
S. R. Brundige
Earl Newton
H. J. Barnard
William Gilun
Clark Rice
William Gree, jr.
Thomas Cogswell
J. M. Riddle
Henry J. Turner
David Kendall
J. Potter, jr.
Warren Thompson
William Page
Alanson Page
A. H. Tilden
Judah Wells
L. La. Burriss
D. Beckwith
Thomas Hogarth
L. Spencer
E. Spencer
William Ward
A. S. Joslyn
Walter Scott
James Potter
Charles Stoughton
J. R. Jordan
T. P. Hart
John Richardson
Dennis Wing
Jonathan C. Mosher
R. Newland
J. L. Backus
Alva Montgomery

Hervey Seymour
Hiram Parrish
Thomas Bigford
John S. Myers
C. Beckwith
William L. Utley
Jacob Stickle
R. S. Blannerhassett
John L. Andrews
John R. Beckwith
J. Van Buren
Apollos Lincoln
Bela Joslyn
Jabez H. Beardsly
Martin Pratt
Harlow V. R. Joslyn
Henry Bridger
Isaac Parrish
Eleazer T. Blodgett
James F. Stoughton
William F. Olds
Asa Hall
H. C. Demun
J. Rand Bogart
Harvey Wing
J. J. Benedict
Joseph Tanner
John Dunnston
Ammi R. R. Butler
George W. Wing
Samuel Matteson
William O. Palmer
John Dristine
Asa Foster
A. M. Robinson
F. E. Winslow
William T. Blodgett
Gorham Newcomb
I. Webber
E. B. Swift
John M. Curtis
Russel Day
George Wicks
John Meredith
H. Colton
Erastus Loomis
D. Davis
Jacob Dirstine
John Collins, jr.
Gibbs Perkins
J. N. Braddish
A. S. Patterson

T. G. Goodwill
Lucius Hall
Elisha Fox, sen.
A. T. Mooers
Benjamin Kent
S. P. Coon
C. B. Parrish

C. Spencer
F. Gilbert
T. S. French
Forenva Warden
J. M. Demun
I. J. Tisdale
E. G. Moulton

PETITION

OF

A NUMBER OF CITIZENS OF NEW YORK,

PRAYING

that the treaty with the Seneca Indians may not be enforced in regard to those who may be averse to emigration.

FEBRUARY 23, 1841.

Laid on the table, and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The undersigned, citizens of the towns of Collins and Brandt, of the State of New York, being convinced that a very large majority of the Seneca nation of Indians are decidedly averse to emigration, and have never given their assent to the treaty for the sale of their lands, as amended by the Senate, either in person or by their authorized agents; and believing that the honor, dignity, and interest of the United States do not require that treaty be enforced upon said Indians; and that, on the contrary, it would be a violation of our national faith, as virtually pledged to them by the resolution of the Senate of June 11, 1838, in which it is distinctly stated that the treaty shall not be binding until the assent of the Indians to the amendments shall be given in open council—would most respectfully petition your honorable bodies to adopt such measures as in your wisdom shall appear adapted to sustain the honor of the United States, and prevent injustice to the Indians.

Leman F. Pitcher
Smith Bartlett
Augustus C. Boon
Wm. Siplees
G. Webster
Peleg Cransom
N. H. Knapp
John Cowdry
Samuel Stewart
Nelson Little
Daniel Hollister
Charles Averill
Wm. Roller
H. Witford
A. Rogers

Elihu Coon
John Davis
Samuel Kent
John Godfrey
John Avery
Thomas J. Allen
James Paris
Hemon Harris
Somes J. Causted
Charles H. Ramsey
Orrin Pierce
Sylvester Wood
Erastus Berry
Benjamin Flint
Arnold Flint

& Rives, printers.

Oreb Parker
Daniel B. Southwick
Theophilis H. Kent
Nathan Southwick
David Chambers
Myron Eddy
Josiah Eddy
Joseph Sherman
Charles C. Sherman
John Brooks
Samuel Beach
George Colony
Wm. Henry
John P. Roller
O. W. Rolfe,
Jesse Worden
Matseib Zoller
Jerome Palmer
Lyman Rolfe
Sylvanus Andruss
E. Hitchcock
Aaron Boon
Joseph Kent
John F. Allen
H. L. Clark
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Daniel Stanton
S. J. Godfrey
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Zalvy Pierce
John R. Simmons
Daniel Fuller
Earl Pierce
William Pierce
Isaac W. Coon
Elisha Coon
Jerome Harris
Darius Odell
Jacob B. Southwick
Luther Colvin
Reuben Fisk
John Roberts
Daniel McMartin
J. C. Hitchcock

PETITION

OF

A NUMBER OF CITIZENS OF CHATAUQUE COUNTY, NEW YORK,

PRAYING

That the treaty with the Seneca Indians may not be enforced in regard to those who may be averse to emigration.

FEBRUARY 23, 1841.

Laid on the table, and ordered to be printed.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The undersigned, citizens of the county of Chatauque, and of the State of New York, being convinced that a very large majority of the Seneca nation of Indians are decidedly averse to emigration, and have never given their assent to the treaty for the sale of their lands, as amended by the Senate, either in person or by their authorized agents; and believing that the honor, dignity, and interest of the United States do not require that treaty to be forced upon said Indians; and that, on the contrary, it would be a violation of our national faith, as virtually pledged to them by the resolution of the Senate of June 11, 1838, in which it is distinctly stated that the treaty shall not be binding until the assent of the Indians to the amendments shall be given in open council—would most respectfully petition your honorable bodies to adopt such measures as in your wisdom shall appear best adapted to sustain the honor of the United States, and prevent injustice to the Indians.

Ethan Angell
James Waxham
George S. Hebard
Amos Bennett
Pearl De Wolf
Henry Farnham
Daniel Farnham
Hiram Gilbert
R. Simons
Abijah Sterns
D. G. Colvill
Harrison McClanahan
Daniel P. Gardner
Anson Parsons
E. Dewey
Ira H. Farnham
Hatten A. Farnham
Bradner Hunn
Elba Fuller
A. Buck
Cornelius Scott
J. W. Scott
John Weed
Philo Hanford

Blair & Rives, printers.

H. W. Glover
John Clough
George Love
Samuel Snow
Jon. S. Pattison, jr.
Milo Pattison
William Mower
Lewis H. Morris
W. N. Richardson

Abraham Keech
Rufus Johnson
E. Plucker
Daniel Sage
Henry Renshee
Peter Bohn
Elisha Derison
Benjamin Harmon
Benjamin Harmon, jr.

MEMORIAL

OF

A NUMBER OF CITIZENS OF NEW JERSEY,

PRAYING

The enactment of a general bankrupt law.

FEBRUARY 23, 1841.

Laid on the table, and ordered to be printed.

To the members of Congress:

Your memorialists pray you to enact a general bankrupt law that will release an unfortunate but honest man from his debts, upon his surrender of all his property for the benefit of his creditors.

PRINCETON, N. J.

F. Knighton
George T. Olmsted
William Jones Booth
J. V. D. Bergen
R. E. Hornor
Aaron Bergen
David Hullfish
Isaac Gulick
William Maynard
W. R. Skillman
Alexander G. Rainier
Alexander Hollinshead
James Van Deventer
Philip Davison
John Lowrey
William McCay
J. G. Upelder
Ralph Gulick
A. Burke
Thomas Young
Martin Smyth
John R. Davison
Isaac Stryker
William Clow
Jacob Mapeles
Thomas Blackwood
Moore Baker
George Thompson
John T. Robinson
Abraham Stryker
John Maclean
William A. Jackson
Benjamin H. Green
Samuel Stevens
T. L. Cuyler
E. Mulford
John Conover
David J. Mapel
John Henderson
Henry Voorhees
J. W. Phillips
John Sardder
Garret E. Terhune
Elijah Allen
Noah Green
William Whitlock
Charles C. Hutchinson
Amos Pearce
Daniel Bown
Daniel B. Wagner
Edward Hicks
Elbert S. Williamson

Blair & Rives, printers.

[1841, Feb. 24]

Boston 24th Feby 1841.

Mr C. M. Marriott, — Dear Sir — I rec'd your letter of 20 Jany last concerning the Seneca Nation, & have read it with much interest & pleasure. Public opinion & feeling are so strong in their favor, — and their case, as I understand it, is so clearly made out, that I think they must ultimately obtain full justice. I have rec'd several letters from chiefs of the Nation asking advice, & have this day sent to them a reply, of which I herewith send you a copy. It explains my views so fully, that I need not say more than is therein contained. — The Society of Friends has nobly done its whole duty towards the "Red man". Whatever charges of injustice & oppression may be brought against our country in regard to the Indians, that Society may truly say it stands clear from all such reproach. For its past efforts, every friend of humanity must feel most grateful; — & for a blessing on its future operations it will have the best wishes & earnest prayers of every good man.

With sincere respect, Your obt Servt

John Q. Adams.

Ogden Treaty Folder — Indians —

Copy.

Boston Feby 24th 1841

Rufus Seneca White & others — Gentlemen — Your letters of 20th Jany & 1st Feby have been rec'd, & would have had an earlier reply if it had been possible to give you any precise information sooner on the subject of your inquiries.

I do not perceive how the Com'th of Mass'tts can make any movement in regard to the deed to Ogden & others, now held as an "escrow". If the facts, that the deed was so held, had been known

when the report was made last November, it would, most assuredly, have been noticed in that document. But your above mentioned letter first brought the fact to my knowledge.

The questions between the Seneca Nation, & ogden & fellows are strictly legal questions, affecting them respectively, but not Mass^ts, which is not a party in interest. And, therefore, I do not perceive how this State can pursue any measures, in law or in Equity, concerning the deed or treaty. This is not only my opinion, but it is the opinion of other members of the legal profession here, who feel a deep interest in the welfare of your Nation.

It has been suggested that our Legislature should adopt resolutions expressing their feelings & wishes on the subject: But the subject was formerly confided to our Executive department; & some of your friends consider that the concluding report of Novr last sufficiently declares the views of Mass^ts.

I incline to think your wisest course will be, to endeavor to have the treaty returned to the U.S. Senate by Pres^t Harrison. If this should be done, I can not doubt that it would be annul, or [what would be equivalent,] would be approved only subject to a legal & proper ratification by your chiefs & headmen in Council. I believe Pres^t Harrison has always dealt justly with the Indians, & I have no doubt that the "friends", & others will see that he is fully instructed as to the state of things between you & the Ogden Co.

If you do not succeed in having the treaty thus disposed of, I advise you to submit your case, with all the information you can give about it, to Chancellor Kent of New York, & take his opinion as to the rights of your Nation, & the means necessary to enforce them. His character as a lawyer is so well known, & so

must be expected, that his opinion, if favorable to you, might aid you greatly. Perhaps, it might be well for you to submit your case to him, & obtain his opinion immediately. And if it should be in your favor, & he would consent to have it published, I think it might have a happy influence on your affairs at Washn. — If you do not succeed at Washn, it has occurred to me that the Chancellor may advise you to apply to the Court of Chancery for an injunction against the person holding the deed to Fuller & Fellows, enjoining him not to deliver it, — or even requiring him to surrender it to be cancelled. Such an application would bring before the Court the whole merits of the case in controversy. But I will not give any advice on this point, except to advise you to be governed by his instructions. — In regard to the action of this Court, our Legislature may think it sufficient that our views have been made public by the Report of Nov. last, — & that any further action is not needed. I believe that Report is in the hands of each of the Senators, & Representatives from this State in Congress, — & I can not doubt that they will do what they find justice & the character of the case require. I can not positively say what course our Legislature may judge proper to be pursued by them on the subject; but I think you should not rely on their adopting any further [illegible]. —

Please accept my best wishes for the just & speedy termination of your unhappy controversy. Respy Yr frd Saml R. Miller.

Mr Chs Marriott,

New York.

A Treaty Between the First and Second christian parties of Oneida Indians that reside on the Oneida Reservation of June 19th in the year 1840 & residing in the State of New York constituting party of the first part & the People of the State of New York being party of the second part.

Whereas many members of the said party of the first part residing on said Reservation are disposed to migrate to Upper Canada or elsewhere beyond the limits of said State; and therefore desire to cede to the said People of the said State aforesaid a part of the lands so reserved by the Treaty made June 19th 1840 by and between said First & Second Christian parties of the Oneida Indians of the one part & the said People of the other part & still belonging to the said party of the first part collectively as tenants in common proportioned to the numbers so desiring to emigrate.

And whereas the other members of the said party of the First part though not at present disposed to sell their own proportion of the lands so belonging to the said party of the first part collectively are nevertheless willing that all those members of said party of the first part who are disposed so to migrate as aforesaid, should do so and receive an equivalent in money to cooperate & unite in the negotiation & execution of a Treaty for such purpose

And whereas an attested list has been made out of all the members remaining of the party of the first part & the whole number has been ascertained to be 182 souls of which number thirty six souls are enrolled on the attested list for migration

beyond the limits of said State & the chiefs warriors and headmen of said party of the first part consenting & agreeing in relation to the quantity & location of the lands to be conveyed & ceded to the said State.

And whereas in & by an act of the Legislature of the said State of New York entitled "An act relating to the Oneida Tribe of Indians passed March 8. 1839 the the Commissioners of the land office are authorized & empowered to purchase of any party or portion of the party of the first part their lands or any part thereof situate in the counties of Madison & Oneida from time to time as the Commissioners or a majority of them may deem proper, according to the form of the Statute so made & provided.

And whereas the whole quantity of land situate lying and being in the town of Lenox in the County of Madison and collectively possessed by all the members of the aforesaid two parties of Oneida Indians is ascertained to be 1388 77/100 acres in which the estate or interest of the said Indians according to their usage as recognized & acted on in former treaties with the same tribe is undivided and individually equal and in case the whole quantity of 1388 77/100 acres of land were equally divided per capita among the whole number of souls the quantity to each individual would be 7 67/100 acres and a minute indefinite fraction over

And whereas Lists of the said two parties respectively have been made & attested by the said party of the first part & the said people party of the second part which are hereto annexed as Schedules 1 & 2 and form

a part of this treaty in which lists the several parties constituting the said party intending to migrate & the party hereinafter designated as the "Home party" are more particularly enrolled and described."

And whereas the following articles of a Treaty and agreement have been submitted to his Excellency William H. Seward governor of said State of New York whose approbation thereof is hereinafter expressed.

Now therefore this Indenture made this 8th day of March in the year of our Lord one thousand eight hundred and forty one between the said Remaining parties of the first and second christian parties of Oneida Indians constituting the party of the first part and the People of the State of New York acting by their agents the Commissioners of the Land office aforesaid constituting the party of the second part witnesseth as follows to wit:

Article 1. The above named party of the first part in consideration of the agreement hereinafter contained on the part of the said party of the second part and of the receipt of the sums of money hereinafter specified are to be paid at the execution & conclusion of this Treaty. Do hereby grant, bargain, sell cede and surrender to the People of the State of New York all the right, title, estate and interest of the said party of the first part in & to all that part of the said Reservation of June 19th 1840 Bounded & described as follows to wit. Beginning at the South east corner of the said Reservation as established by the Treaty of June 19th 1840 in the centre of the Oneida Turnpike at South bend creek, a stone monument standing on the westerly line of said Turnpike. thence

north from the centre of said creek & Turnpike and from thence running South fifty four degrees & thirty minutes west in the centre of the said Turnpike eleven chains & Eighty links a Stake North links, thence North one hundred & five chains & ten links to stake thence North eighty nine degrees & thirty minutes west ninety nine chains & seventy five links to a stake standing on the west line of said Reserve: Thence North one degree & fifteen minutes east on the said west line fourteen chains and eighty two links to the north west corner thereof: a Stone monument marked **N.W.C.R.N.°2**: Thence South eighty nine degrees & thirty minutes east on the North line of said Reserve one hundred & Eleven chains & fifty links to the north east corner thereof: a Stone monument marked **N.E.C.R** No. 24.30. Thence south one degree & fifteen minutes west on the east line of said reserve one hundred & thirteen chains & eight links to the place of Beginning: containing Two hundred Seventy four 75/100 acres of land (274.75 acres)

Article 2nd. The Commissioners of the Land office will cause the lands hereby ceded to the people of the State of New York to be measured & subdivided into parcels or lots of convenient and suitable dimensions for occupation as farms & for the advantageous sale thereof: and will cause the same to be sold in the manner provided for the sale of unappropriated lands of the State from time to time as rapidly as the removal of the said Indians will permit, and as will secure the best price for the same and will cause a regular accounts of the expenses of such survey and of all

expenses incurred in the negotiation, conclusion & execution of this treaty to be kept. And it is hereby stipulated & agreed that the People of the said State will hold and retain the avails of all such sales in trust to be applied to the following purposes.

First, To the repayment of all advances made by the said People on account of the cession of the said lands with interest thereon at the rate of six per cent per annum.

Second, To the Repayment of all expenses in the survey description and partition of the lands which are the subject of this treaty and of all expenses in the negotiation conclusion and execution of the same.

Third, to pay the residue of the said avails with all interest that may accrue thereon to the chiefs & the chiefs headmen & individuals of the said Emigrating party whenever they shall be ready to migrate & depart beyond the limits of this State.

Article 3. And whereas the persons & souls enrolled on the said allotted list as intending to migrate beyond the limits of said States amount to 36 souls.

1. On the final conclusion of this Treaty the said People will pay to Nathan Bullard Salmon Case & Thos S. Hitchcock of the town of Vernon in the County of Oneida who have been nominated by the whole of the said Emigrating party as Trustees and agents for the purpose the sum of Nine hundred dollars to be expended under the direction of said Trustees and the chiefs & Headmen of the said emigrating party & to be applied in the payment of such debts of the said party as their chiefs and Headmen shall certify to be fair & just and as shall appear to the said

Trustees to be of that character & the balance to be distributed among the individuals of the said party in such manner & proportions as their chiefs & headmen and the said Trustees shall deem just and equitable in order to enable the said individuals to procure the articles which it may be necessary or convenient for them to take upon their emigration

The said Trustees shall render to the commissioners of the land office an account of the disbursement of the moneys that may be advanced to them under this article with vouchers therefor. They shall be entitled collectively to retain one per cent of the moneys received & paid out by them as a compensation for their services

Article 4. The present value of the above described lands ceded to the People of the State of New York by this Treaty with all the improvements thereon shall be appraised and estimated by a Surveyor appointed on the part of the Commissioners of the Land office of the State of New York and Sands Higginbotham a commissioner chosen on the part & behalf of the said Oneida Indians which appraisal shall state the value of the improvements separately and shall be subscribed & sworn to by them and filed in the office of the Secretary of State & in case the said ceded lands shall not have been sold prior to the first day of May next so as to ascertain the exact proportionate sum due & payable to each person of said party so enrolled as intending to migrate: Then it is hereby agreed that the said People of the State of New York will on or before that day advance and pay the said emigrating

party the full amount of said appraised value of said ceded lands exclusive of improvements after deducting the expenses herein before mentioned, and when the sales of the said ceded lands shall be completed: The People of the said State will pay to the said emigrating party the surplus of such actual sales of the said lands exclusive of improvements over and above the said estimated value after deducting the ~~surplus~~ expenses aforesaid.

The said advances and payments to be made to such chiefs & headmen of the said Emigrating party, as shall be duly authorized by the Members thereof to receive the same. "but such payments not to be made until possession of the lands hereby ceded be surrendered."

Article 5. The buildings & other improvements upon any part of the lands by this Treaty ceded & conveyed to the people of the State of New York shall be appraised and the value ~~xxx the value~~ thereof estimated by the persons herein before authorized to appraise the said ceded lands who shall make a detailed statement of the names of the persons entitled to such improvements the nature and extent thereof generally and their fair value, which shall be subscribed by them & sworn before a justice of the peace to be just and fair according to the best of their judgment and which shall be filed in the office of the Secretary of State which appraised value shall be paid to each & every individual respectively to whom the appraised improvements may belong when they shall finally migrate out of said State and the value of the said improvements shall not be estimated in the amounts herein before agreed to be

paid to any party or portion of the said Oneida Indians as their proportion of the avails of the said ceded lands.

Article 6. It is hereby further stipulated & agreed that such of the said First & Second Christian parties of the Oneida Indians who are enrolled on the said list attested as aforesaid as intending to emigrate here by release quit claim and forever renounce to the said Indians who are so enrolled as intending to remain and to those who may succeed them in their rights, all right title claim & demand whatsoever in to the said portion of lands to set apart described and reserved for the said Indians who do not intend to emigrate; Bounded & described as follows Towit:

Beginning at a stone monument placed on the South West corner of said Reservation of June 14th in the year 1840 marked S.W.C.R & No 12 & from thence running North one degree & fifteen minutes east along the west line of the same one hundred & nine chains & fifty eight links to a stake: thence South eighty nine degrees and thirty minutes east ninety nine chains and seventy five links to stake: thence South one hundred and five chains and ten links to the centre of Oneida Turnpike Then South fifty four degrees & thirty minutes west along the centre of said Turnpike eleven chains a stone monument on the west line of the same N. 88° 15' N links marked S.C.R.W line of Turnpike & thence north eighty eight degrees & fifteen minutes west ninety three chains & twenty six links to the place of beginning containing Eleven hundred and fourteen acres of land

which land so reserved for such of the members of the first and second christian parties of the Oneida Indians as intend to remain in this State is to be had held enjoyed and occupied by them collectively in the same manner & with the same right title & interest therein as appertained to the said party of the first part before the execution of this Treaty with the following modification

When any family desirous of having their lands divided off to them or any two or more families on agreeing to unite in the seperate ownership of any portion of the said Reserved lands shall be composed of such numbers as would entitle them to at least Fifty Acres according to the ratio herein before stated, they may make application to Nathan Burchard, Salmon Case & Ira S. Hitchcock or to such other persons as may hereafter be appointed by the Commissioners of the Land Office and upon the said persons certifying that the Heads of the families so applying are prudent, industrious & capable of managing & taking care of such lands & that the remaining members of the said party generally assent to the setting apart to such applicants the said quantity of land to which they may be entitled, the Commissioners of the Land office will direct such quantity to be measured & described in one convenient parcel & will thereupon grant a certificate to the persons so applying to the effect that they are entitled to hold & occupy the same in severalty & the quantity of land so described shall be in lieu of all claim & interest of such applicants in & to the common lands & property of the party, so remaining

paid to any party or portion of the said Oneida Indians as their proportion of the avails of the said ceded lands.

Article 6. It is hereby further stipulated & agreed that such of the said First & Second Christian parties of the Oneida Indians who are enrolled on the said list attested as aforesaid as intending to emigrate here by release quit claim and forever renounce to the said Indians who are so enrolled as intending to remain and to those who may succeed them in their rights, all right title claim & demand whatsoever in & to the said portion of lands so set apart described and reserved for the said Indians who do not intend to emigrate; Bounded & described as follows Towit:

Beginning at a stone monument placed on the South West corner of said Reservation of June 19th in the year 1840 marked S.W.C.R & No 12 & from thence running North one degree & fifteen minutes east along the west line of the same one hundred & nine chains & fifty eight links to a stake: thence South eighty nine degrees and thirty minutes east ninety nine chains and seventy five links to stake: thence South one hundred and five chains and ten links to the centre of Oneida Turnpike Then South fifty four degrees & thirty minutes west along the centre of said Turnpike eleven chains a stone monument on the west line of the same N. 88° 15' N links marked S.G.R.W line of Turnpike & thence north eighty eight degrees & fifteen minutes west ninety three chains & twenty six links to the place of beginning containing Eleven hundred and fourteen acres of land

which land so reserved for such of the members of the first and second christian parties of the Oneida Indians as intend to remain in this State is to be had held enjoyed and occupied by them collectively in the same manner & with the same right title & interest therein as appertained to the said party of the first part before the execution of this Treaty with the following modification

When any family desirous of having their lands divided off to them or any two or more families on agreeing to unite in the seperate ownership of any portion of the said Reserved lands shall be composed of such numbers as would entitle them to at least Fifty Acres according to the ratio herein before stated, they may make application to Nathan Burchard, Salmon Case & Ira S. Witchcock or to such other persons as may hereafter be appointed by the Commissioners of the Land Office and upon the said persons certifying that the Heads of the families so applying are prudent, industrious & capable of managing & taking care of such lands & that the remaining numbers of the said party generally assent to the setting apart to such applicants the said quantity of land to which they may be entitled, the Commissioners of the Land office will direct such quantity to be measured & described in one convenient parcel & will thereupon grant a certificate to the persons so applying to the effect that they are entitled to hold & occupy the same in severalty & the quantity of land so described shall be in lieu of all claim & interest of such applicants in & to the common lands & property of the party so remaining

and such certificate shall operate as a partition between the said applicants & the residue of said party so remaining in respect to all the lands held by them collectively. But the lands so set apart & held in severalty shall not be liable to any sale or transfer absolute or conditional or to any Lease or Mortgage to any person or body other than the People of the State of New York. The expense of such survey and partition is in all cases to be defrayed by the applicants.

Article 7. It is hereby further stipulated & agreed by & between the respective parties to this Treaty that the whole number of Souls enrolled on said attested list shall not be affected by any future variations by reason of births deaths or otherwise from what they now appear on the attested List annexed to this Treaty;

And it is hereby further stipulated and agreed by & between the said parties, that the Map, & the certificates of survey endorsed thereon & duly authenticated & sworn to, by Nathan Burchard Deputy surveyor & appended to this Treaty shall be forever deemed the metes and bounds & descriptions of said ceded lands & the lands so reserved.

And it is hereby further stipulated & agreed by & between the respective parties parties to this Treaty that the party of the second part shall pay to the Chiefs & head men of the said migrating party to be applied under the direction & superintendence of Nathan Burchard Attorney for the said Oneida Indians the sum of Eighteen hundred & fifty dollars out of the avails of the sale of said ceded lands in payment for a Tract

of Land purchased by the said Attorney for the said emigrating party in the township of Delemere London District in the province of Upper Canada.

Article 8. This Treaty shall be executed in duplicate in the first instance by the Chiefs Warriors, Headmen of the party of the first part with the advice & assistance of Nathan Beachard Attorney for said Indians and of John P. Sherwood a justice of the peace of the County of Oneida who will certify that the same has been carefully explained to and understood by them the said Indians: Such execution to take effect when the same shall also be executed by the Commissioners of the Land office of the State of New York or a Majority of them and when the same shall be approved by the Governor of the said State to be signified by his approbation indorsed hereon.

In testimony whereof the said chiefs warriors & Headmen of the party of the first part have hereunto set their hands and seals in token of the consent to this Treaty, of the whole tribe of said Oneida Indians constituting the party of the first part.

And the Commissioners of the Land office of the said State of New York have also hereto subscribed their names in behalf of the People of the said State & by the direction of the Governor they have caused the great seal of the said State to be hereto affixed this done & executed in Duplicate on the year and day above mentioned

Peter his + mark Summers, chief (LS) John his + mark Thompson (LS) Ctham + Charles mark (LS) Abram + Summers (LS) William his + mark Schuyler 2 (LS) Martin + Williams (LS) Thomas + mark Charles (LS)

Henry Bingham jr (L.S.) Thomas his + mark Summers (L.S.) Abram his + mark Schuyler (L.S.) Aaron his + mark Cooper chief (L.S.) Abram mark + Webster (L.S.) Martin mark + Denny (L.S.) Peter + Doytader (L.S.) Henry Nimham (L.S.) Daniel + Schendoah (L.S.) Daniel + Powlis (L.S.) Peter + Isaac (L.S.) David + Charles (L.S.) William + Summers (L.S.). Signed and sealed by the Warriors & chiefs of the first and second christian Parties of the Oneida Indians constituting party of the first part whose names are subscribed in our presence and we certify that the contents of the preceding Treaty were carefully explained to them and the other members of the said Indian parties in full council and were fully understood by them. Nathan Bouchard Attorney for Oneida Indians. John P. Sherwood Justice Peace. John C. Spencer Secretary of State. John A. Collier Comptroller. O. L. Holley Surveyor General Willis Hall Attd Genl Commissioners of the Land Office

The foregoing treaty is hereby approved by me this 3d day of April 1841 William H. Seward (L.S.)

Ex.

Shedule No 1. consists of a List of all those of the first & second christian parties of Oneida Indians who intend to migrate to the township of Delaware London District U.C.

Henry Nimham 1	John Thompsons family
David Powlis 1	John Thompson
Sally Isaac 1	Eve Thompson
	Antonie Thompson
Peter Summers family	Nicholas Thompson 4
Peter Summers	
Caty Summers	William Schuyler's family
Dolly Summers	Elizabeth Schuyler
Sally Summers	Baptist Schuyler

Abram Summers
Abram Summers Jr } 6

Hannah Charles family
Hannah Charles
Abram Charles
Caty Charles
Thomas Charles } 4

Lucy Homes family
Lucy Homes
Thomas Homes
John Homes
Elizabeth Homes } 4

Thomas Summers family
Thomas Summers
Baptist Summers } 2

Margaret Antoine 1
Elizabeth Schuyler 1
Abram Schuyler 1

Thomas Schuyler
Nelly Schuyler
Doley Schuyler
William Schuyler 2d } 6

Elizabeth Browns family
Elizabeth Brown
Moses Brown } 2

Martinas Williams 1
Caty Elm 1

Total No. Souls 38

State of New York }
County of Oneida } ss: We do hereby certify at a full council of the residue of the 1st & 2d christian parties of the Oneida Indians held at their council house March 8. 1841 the above attested list was approved & conceded to be correct by the Chiefs & Warriors thereof. Dated March 8. 1841

Nathan Beachard
Attorney for Oneida Indians
John P. Sherwood
Justice Peace

Examined and compared with the Original by
Arch.d Campbell
Dep. Secretary

Schedule No 2 consists of a List of all the first & second Christian parties of Oneida Indians commonly called the "home party" who do not at present intend to sell but to remain on their Reservation situate in the town of Lenox in the County of Madison

Mary Antonies family
Mary Antonie
Dolly Antonie
Jacob Antonie
Hannah Antonie 5

Henry Nimhams family
Henry Nimham
Elizabeth Nimham
Abraham Nimham
David Nimham
Caty Nimham
Elijah Nimham
Thomas Nimham 7

Peter Doxtaders family
Peter Doxtader
Lucretia Doxtader
Mary Doxtader
Cornelius Doxtader
Elizabeth Doxtader
Caty Doxtader
Jenney Doxtader 7

Dolly Schenandoahs family
Dolly Schenandoah
Margaret Schenandoah
Baptist Schenandoah
Jacob Schenandoah
Elizabeth Schenandoah
Infant Child 6

Thomas Cornelius family
Elizabeth Cornelius
John Cornelius
William Cornelius
David Cornelius
John Adams
Susanna Cornelius 6

Martin Denneys family
Elizabeth Denney
Martin Denney Jr
Martin Denney
David Powlis
Hungost Powlis
Susanna Powlis 6

Abram Websters family
Abram Webster
Hannah Webster
Isaac Webster
Caty Webster
Betsey Webster
Infant child 6

Sally Schenandoahs family
Sally Schenandoah
Dolly Schenandoah
Abram Schenandoah
Thomas Schenandoah
John Powlis 5

Peter Isaac
Elizabeth Isaac 2
Moses Charles 1

(Continued)

Caty Jordans family
Caty Jordan
David Charles
Jerusha Jordan
Solomon Jordan
Elizabeth Jordan
Elias Jordan 6

Elizabeth La Fort
Hannah La Fort
Abraham La Fort
Goene La Fort
Hatus La Fort 5

Mary Summers family
Mary Summer
Hannah Summer
William Summer
John Summer
Polly Summer 5

Elizabeth Hills family
Elizabeth Hill
Sally Hill
Peter Hill
Cornelius Hill 4

Peter Websters Family
Peter Webster
Mary Webster
Abram Webster 3

Baptist Elm
Mary Elm 2

Joseph Honeyost
Martinus Honeyost
Elijah Honeyost 3

William Schuylers family
William Schuyler
Mary Schuyler
William Cornelius
Margaret Cornelius
Caty Schuyler
Eve Schuyler
Rachel Schuyler 7

Jacob Schuylers family
Jacob Schuyler
Elizabeth Schuyler
Lewis Schuyler
Cornelius Schuyler
William Schuyler 3d 5

Aaron Coopers family
Aaron Cooper
Hannah Cooper
Polly Cooper
Margaret Cooper
Lisa Cooper
Jenny Cooper
Caty Cooper
Betsey Cooper
Moses Cooper 9

William Charles
Sally Charles
Elizabeth Charles
Goene Charles 4

Isaac Judah 1
Jacob Antone 1

Elizabeth Abram
Jenny Abram 2
Thomas Thompson 1

Caty Charles family
Caty Charles
Margaret Charles
Susa Charles
Mary Charles
David Charles 5

Mary Antonies family
Mary Antonie
Anthony Antonie
Susa Antonie
Mary Antonie
Thomas Antonie
Page Antonie
Cornelius Antonie
Caty Antonie 8

James Schuyler
William Schuyler
Peter Schuyler
Susannah Schuyler 4

Peter Websters family
Peter Webster
Jenny Webster
Mary Webster
David Webster
Thomas Webster
Hannah Webster
Mary Webster
Henry Webster
Dolly Webster 9

Rachel Islands family
Rachel Island
Abram Island
Cornelius Island
Susa Island
Thomas Island
Mary Ann Island 6

Joseph Island alias
Joseph Onondaga
Betsey Island
Elizabeth Island
Jenny Island
Antonie Island 5

whole no. Home party 145

State of New York }
Oneida County, } ss:
We do hereby certify that a full council of the Residue of the 1st & 2d christian parties of the Oneida Indians held at their council house March 8. 1841 the above annexed List was approved & conceded to be correct by the Chiefs & warriors thereof. Dated March 8 1841.

Nathan Bunchard
Attorney for Oneida Indians
John P. Sherwood
Justice Peace

Examined & Compared with the Original by
Arch. Campbell
Dep. Secretary

State of New York }
Oneida County } ss:

We the undersigned chiefs of the first & second Christian parties of the Oneida Indians named in the foregoing Treaty do hereby assent to & concur in the amendments & corrections made by the party of the second part to the above Treaty & they shall have the like force & solemnity as if the same were contained in the original Indenture. In Witness whereof we have hereto set our hands & seals in token of consent to this Treaty of all the members of the Party of the first part this first day of April in the year one thousand eight hundred & forty one.

John his + mark Thompson (L.S.) Abram his + mark Webster (L.S.)
William his + mark Schuyler (L.S.) Abram his + mark Summer (L.S.)
Moses his + mark Charles (L.S.) Martin his + mark Denney (L.S.) Mathias his + mark Williams (L.S.) Daniel his + mark Schenandoah (L.S.)

Signed & sealed by the chiefs Headmen & Warriors of the 1st & 2d christian of the Oneida Indians after the above amendments & corrections in the foregoing Treaty had been read & fully explained to them and to which the said chiefs gave their assent & signatures in our presence at the date above written in full council Nathan Bouchard Attorney for the Oneida Indians Charles Granger Justice of the Peace

Ex.

State of New York }
Oneida County } ss. We the undersigned chiefs headmen & Warriors of the first & second christian parties of the Oneida Indians known & distinguished in & by the attested List annexed to the foregoing Treaty as the Emigrating Party of the said Indians in

consideration of the agreement & payment of the sums of money mentioned to be made by the party of the second part & for divers other good causes & considerations us thereunto moving, Have bargained & agreed & by these presents do bargain and agree with the said party of the second part to leave & surrender our Lands ceded by the said Treaty on the 4th day of May next unto the said party of the Second part & do stipulate & further agree with the said party of the second part to Emigrate & leave the State of New York on the 10th day of May next.

And we the Chiefs Headmen & Warriors of the said first & second ~~christ~~ Christian parties of the Oneida Indians known and distinguished by the attested lists annexed to the above treaty as the "Home Party" of said Indians do hereby stipulate & agree with the said party of the second part to said Treaty to leave and surrender our Lands ceded by the same unto the said party of the second part on the said 4th day of May next any clause or stipulation in the foregoing Treaty to the contrary not-withstanding. In witness whereof we have hereto set our hands & seals this first day of April 1841.

Martin his mark + Denny chief (L.S.) William his mark + Schuyler 2d chief (L.S.) John his mark + Thompson (L.S.) Martin his mark + Williams (L.S.) Abram his mark + Webster chief (L.S.) Daniel his mark + Schenadoah (L.S.) Abram his mark + Summers (L.S.) Moses his mark + Charles (L.S.) Henry his mark Cornham chief (L.S.)

Signed & sealed by the Chiefs Headmen & Warriors of the 1st & 2d Christian parties of the Oneida Indians constituting party

of the first part whose names are subscribed in our presence & we certify that the contents of the above stipulation were carefully explained to them & the other members of the said Indian parties in full council and were fully understood by them and unanimous by signed by them.

Nathan Dunham Attorney for Oneida Indians. Charles Granger Justice of the Peace

Ex.d

Examined & compared with the original by
Arch.d Campbell
Dep Secretary

A Treaty Between the Orchard Party of the Oneida Indians residing in the State of New York constituting party of the first part and the People of the State of New York being party of the second part.

Whereas several members of the said party of the first part residing on the Reservation not released to the party of the second part by the party of the first part by the Treaty of 27 February 26. 1838 are disposed to migrate to Upper Canada or elsewhere beyond the limits of this State and therefore desire to cede to the said People of the State aforesaid a part of the lands so reserved by the Treaty aforesaid and still belonging to the said party of the first part collectively as tenants in Common, proportional to the numbers so desiring to emigrate.

And whereas the other members of the said party of the first part though not at present desirous of selling their own proportion of the lands so belonging to the said party of the first part collectively are nevertheless willing

of the first-part whose names are subscribed in our presence & we certify that the contents of the above stipulation were carefully explained to them & the other members of the said Indian parties in full council and were fully understood by them and unanimously signed by them.

Nathan Dunchard Attorney for Oneida Indians. Charles Granger Justice of the Peace

Ex.d

Examined & compared with the original by

Arch.d Campbell
Dep Secretary

A Treaty Between the Orchard Party of the Oneida Indians residing in the State of New York constituting party of the first-part and the People of the State of New York being party of the second part.

Whereas several members of the said party of the first part residing on the Reservation not released to the party of the second part by the party of the first-part by the Treaty of 27 February 26. 1834 are disposed to migrate to Upper Canada or elsewhere beyond the limits of this State and therefore desire to cede to the said People of the State aforesaid a part of the lands so reserved by the Treaty aforesaid and still belonging to the said party of the first-part collectively as tenants in Common, proportioned to the numbers so desiring to emigrate.

And whereas the other members of the said party of the first-part though not at present desirous of selling their own proportion of the lands so belonging to the said party of the first-part collectively are nevertheless willing

that all those members of said party of the first part who are disposed to migrate as aforesaid should do so, & receive an equivalent in money, and are also willing to operate & unite in the negotiation and execution of a Treaty for such purpose.

And whereas an attested List has been made out of all the members remaining of the said party of the first part and the whole number has been ascertained to be ninety eight, out of which number forty four, are enrolled on the attested list for migration & removal beyond the limits of said State; and the Chiefs Headmen and warriors of the said party of the first part do consent & agree in relation to the quantity & location of the lands to be conveyed & ceded to the said State.

And whereas in & by an act of the Legislature of the State of New York Entitled "An act relating to the Oneida Indians passed March 8. 1839" the Commissioners of the Land office are authorized & empowered to purchase of any party or portion of the said party of the first part, their lands or any part thereof situate in the Counties of Oneida & Madison from time to time as the Commissioners or a majority of them may deem proper according to the form & provisions of the Statute so made & provided

And whereas the whole quantity of land situate lying & being in the town of Vernon in the County of Oneida and collectively possessed by all the members of the said party of the first part is ascertained to be 481 92/100 acres in which the estate or interest of the said party of the first part according to their usages as recognised & acted on in

former treaties with the said Tribe is undivided & individually equal and in case the whole quantity of 184 27/100 acres of Land were equally divided per capita among the whole number of souls, the quantity to each individual would be 4 94/100 acres & a minute indefinite fraction over.

And whereas lists of the said two parties respectively have been made & attested by the said party of the first part & the said People party of the second part which are hereunto annexed as Schedules 1 & 2 & form a part of this Treaty in which lists the several parties constituting the said party intending to emigrate & the party herein after designated as the "Home party" are more particularly enrolled & described.

And whereas according to the usage of said Indians and the provisions of former Treaties with the same tribe, although their lands is possessed by them collectively & their interest in it is common & undivided. Yet the improvements made thereon or upon any part thereof are considered as the property of the individuals or families who make such improvements.

And whereas the following articles of a Treaty of Cession have been submitted to his Excellency William H. Seward Governor of the said State of New York whose approbation thereof is hereinafter expressed.

Now therefore: This Indenture made this thirteenth day of March in the year of our Lord one thousand eight hundred and forty one. Between the said Orchard Party of the Oneida Indians constituting the party of the first part and the People of the State of New York acting by their agents the Commis

sioners of the Land Office aforesaid constituting the party of the second part Witnesseth as follows Towit.

Article 1. The above named party of the first for & in consideration of the agreements hereinafter contained on the part of the party of the second & of the receipt of the sums of Money hereinafter specified to be paid at the execution of this Treaty do hereby grant bargain sell cede & surrender to the People of the State of New York all the right title estate & interest of the said party of the first part to all that part of the said Reserved lands not released by the said party of the first part to the said party of the second part in & by the said Treaty of February 26. 1834. Bounded & described as follows to wit. Beginning at the south west corner of said Reserved lands at a stake and from thence running north seven degrees & forty five minutes east along the westerly line of the same fifty five chains to a stake on the South easterly line of the Oneida purchase of June 19. 1846 Thence North fifty five degrees east along the same thirty one chains & sixty links to stake Thence South twenty eight degrees east forty eight chains and fifty links to the South line of said Reserved lands, and Thence South sixty two degrees west along the South line thereof sixty three chains & fifty four links to the place of Beginning and containing Two hundred and Seventeen 44/100 acres of land

Article 2. The Commissioners of the Land office will cause the lands hereby conveyed & ceded to the People of the State of New York to be surveyed and subdivided into parcels or lots of convenient & suitable

dimensions for occupation as farms, and the advantageous sale thereof and will cause the same to be sold in the manner provided for the sale of unappropriated lands of the State from time to time as rapidly as will secure the best price for the same, and will cause regular account of ~~the expenses of such survey~~ the expenses of such survey & of all expenses incurred in the negotiation conclusion and execution of this Treaty to be kept and it is hereby stipulated & agreed that the People of said State will hold & retain the avails of all such sales in trust to be applied to the following purposes.

First: To the repayment of all advances made by the said People on account of the cession of the said lands with interest thereon at the rate of six per cent per annum

Second. To the repayment of all expenses in the survey description & partition of the lands which are the subject of this Treaty and all the expenses in the negotiation conclusion & execution of the same.

Third. To pay the residue of the said avails with all interest that may accrue thereon to the Chiefs Headmen & individuals of the said emigrating Party whenever they shall be ready to emigrate and depart beyond the limits of this state.

Article 3. And whereas the persons & souls enrolled on the said annexed list as intending to emigrate beyond the limits of said State amount to 44 souls.

1. On the final conclusion of this Treaty the said People will pay to Nathan Birchard & Salmon Case of Vernon who have been nominated by the whole of

the said emigrating party, as Trustees & agents for the purpose the sum of eight hundred & eighty dollars to be expended under the direction of said Trustees the Chiefs & Headmen of the said emigrating party, & to be applied in the payment of such debts of the said party as their Chiefs and Headmen shall certify to be fair and just shall appear to the said Trustees to be of that character & the balance to be distributed among the individuals of the said party in such manner and proportions as their Chiefs & Headmen & the said Trustees shall deem just & equitable in order to enable the said individuals to procure the articles which it may be necessary or convenient for them to take upon their emigration. The said Trustees shall render to the Commissioner of the Land Office an account of the disbursements of the money that may be advanced to them under this article with proper vouchers therefor. They shall be entitled collectively to retain the per cent of the money received & paid out by them as a compensation for their services.

Article 4. The present value of the above described lands ceded to the People of the State of New York by this Treaty with all the improvements thereon shall be appraised and estimated by a Surveyor appointed by the Commissioner of the Land Office of the State of New York and John P. Sherwood a commissioner chosen on the part & behalf of the said Oneida Indians which appraisal shall state the value of the improvement separately & shall be subscribed & sworn to by them & filed in the office of the Secretary of State & in case the said ceded lands shall not have been sold prior to the

first day of May next so as to ascertain the exact proportionate sum due & payable to each person of said party so enrolled as intending to emigrate. Then it is hereby agreed that the said people of the state of New York will on or before that day advance and pay the said emigrating party the full amount of the said appraisal of said lands ceded as aforesaid exclusive of improvements after deducting the expenses herein before mentioned. And when the sales of said ceded lands shall be completed then the people of the State of New York will pay to the said emigrating party the surplus of such actual sales of the said Lands exclusive of improvements over and above the said estimated value after deducting the expenses aforesaid.

The said advance & payments to be made to such Chiefs & Headmen of the said Emigrating party as shall be duly authorized by the members thereof to receive the same, but such payments not to be made until possession of the lands hereby ceded is surrendered.

Article 5. The buildings & Improvements upon any part of the lands by this Treaty ceded and conveyed to the People of the State of New York shall be appraised and the value thereof estimated by the persons herein before authorized to appraise the said ceded lands, who shall make a detailed statement of the names of the persons entitled to such improvements the nature and extent thereof generally and their fair value which shall be subscribed by them and sworn before a justice of the peace to be just and fair according to the best of their judgments and which shall be filed in the office of the

Secretary of State which appraised value shall be paid to each and every individual respectively to which the appraised improvements may belong when they shall finally emigrate out of said State, and the value of said improvements shall not be estimated in the amount hereinbefore agreed to be paid to any party or portion of the said Oneida Indians as their proportion of the avails of the said ceded Lands.

Article 6. It is hereby stipulated and agreed that such of the said Orchard Party as are enrolled on the said annexed List as intending to emigrate, hereby release, quit claim & forever renounce to the said Indians who are so enrolled as intending to remain and to those who may succeed them in their right all right title claim & demand whatsoever in & to said portion of Lands so set apart described & Reserved for the said Indians who do not intend to emigrate, Bounded & described as follows to wit, Beginning at the north east corner of the Tract of Land Reserved & occupied by the said Orchard party of Oneida Indians on the south easterly line of the Oneida purchase of June 19. 1840 at a stake, and from thence running south fifty one degrees & thirty minutes east on the east line of said first mentioned tract fifty eight chains & thirty ~~twenty~~ links to the south east corner thereof a stake, thence south sixty two degrees west along the south line of said tract sixty three chains & twelve links to a stake thence north twenty eight degrees west along the easterly line of the lands intended to be ceded to the State forty eight chains

and fifty links to a stake on the South easterly line of said purchase of June 19. 1840 and thence North fifty five degrees east along the said line forty chains and forty links to the place of Beginning containing Two hundred & sixty six 88/100 acres of land (266.88 acres) which lands lands so reserved for such of the said Orchard party of the Oneida Indians as intend to remain in this state is to be had held enjoyed & occupied by them collectively in the same manner & with the same right title & interest therein as appertained to the said party of the first part before the execution of this Treaty with the following modification.

When any family desirous of having their lands divided of to them or any two or more of these families agreeing to unite in the seperate ownership of any portion of the said Reserved lands shall be composed of such number as would entitle them to at least fifty acres according to the ratio herein before stated, they may make application to Nathan Burchard, Salmon Case & Prat Hitchcock or to such other persons as may hereafter appointed by the Commissioners of the Land office and upon the said persons certifying that the heads of the families so applying are prudent industrious & capable of managing & taking care of such lands & that the remaining numbers of the said party generally assent to setting apart to such applicants the said quantity of land to which they may be entitled the Commissioners of the land office will direct such quantity to be measured & described in one convenient parcel & will thereupon grant a certificate to the persons so applying to the effect that they are entitled to hold &

occupy the same in severally & the quantity of land so described shall be in lieu of all claim & interest of such applicants in & to the common lands & property of the party so remaining, and such certificate shall operate as a partition between the said applicants & the Residue of the said applicant party so remaining in respect to all lands held by them collectively.

But the lands so set apart & held in severally shall not be liable to any sale or Transfer absolute or conditional to any Loan or mortgage to any person other than the people of the State of New York. The expense of such survey & partition is in all cases to be defrayed by said applicant.

Article 7

It is hereby further stipulated & agreed by & between the respective parties to this Treaty that the whole number of souls enrolled on annexed list shall not be affected by any future accidents by reason of births, deaths or otherwise from what they now appear on the annexed list annexed to this Treaty.

It is hereby further stipulated & agreed by and between the said party of the first part & the said party of the second part That the Map & certificates of survey, endorsed thereon & duly sworn to & authenticated by Nathan Burchard Deputy Surveyor & appended to said Treaty shall be forever deemed the meets & bounds & divisions of the lands intended to be ceded to the said party of the second part & the lands reserved by the said party

of the first part.

And it is further stipulated & the same is hereby agreed by and between the said parties to this Treaty that whenever said ceded lands shall be sold by the party of the second part then & in every such case the said party of the first part shall yield immediate & quiet possession to purchasers under such sale excepting & reserving therefrom unto the said Indians a temporary occupancy of their homes until the first day of June next.

Article 8.

This Treaty shall be executed in duplicate in the first instance by the Chiefs Headmen & warriors of the party of the first part with the advice and assistance of Nathan Bunchard Attorney for the said Indians & of Charles Stanger a justice of the peace of the County of Oneida who will certify that the same has been carefully explained & understood by them the said Indians such execution to take effect when the same shall also be executed by the Commissioners of the Land Office of the State of New York or a majority of them and when the same shall also be approved by the Governor of the said State to be signified by his approbation endorsed thereon

In Testimony whereof the said chiefs Headmen & Warriors of the Party of the first part have hereunto set their hands & seals in token of their consent to this Treaty of the whole tribe of said Oneida Indians constituting the party of the first part

And the Commissioners of the Land Office of the State of New York have also hereto subscribed their names in behalf of

the people of said State & by direction of the Governor they have caused the Great Seal of the State of New York to be hereto affixed. This done & executed in duplicate on the day & year above mentioned

Henry his + mark Christian (S.S.) Moses his + mark Cornelius (S.S.) William his + mark Johnson (S.S.) Moses his + mark Day (S.S.) Henry Antone (S.S.) Cornelius his + mark Matoxen (S.S.) Abram his + mark Cornelius (S.S.) William his + mark Green (S.S.) John his + mark Henryost (S.S.) Lewis his + mark Johnson (S.S.) Anthony + Williams William his + mark Day Chief (S.S.) William his + mark Cornelius Chief (S.S.) Abram his + mark Antone (S.S.) James his + mark Johnson (S.S.) James his + mark Christian (S.S.)

Signed & sealed by the Chiefs Head men & warriors of the Orchard Party of Oneida Indians constituting Party of the First part whose names are subscribed in our presence and we certify that the contents of the preceding Treaty were carefully explained to them and the other members of the said Indian parties in full council & were fully understood by them & unanimously signed by them. Nathan Richard Attorney for Oneida Indians, Charles Granger Justice of the Peace

L.S.

John C. Spencer Secretary of State
John A. Collier Comptroller
O. L. Holley Surveyor General
Willis Hall Att'y Genl
Commissioners of the Land Office

The foregoing treaty is hereby approved by me this third day of April 1841

William H. Seward

Exd

State of New York }
Oneida County } S.S.

We the undersigned Chiefs Headmen and Warriors of the Orchard party of the Oneida Indians known and distinguished in and by the "Attested List" annexed to the foregoing Treaty as the emigrating party of the said Indians in consideration of the agreements & payments of the sums of money mentioned to be made by the party of the second part & for divers other good causes & considerations, us thereunto moving have bargained & agreed & by these presents do bargain & agree with the said party of the second part to leave & surrender our lands ceded by the said Treaty on the fourth day of May next unto the said party of the second part & do stipulate & further agree with the said party of the second part to emigrate and leave the state of New York on the 10th day of May next

And we the chiefs Headmen and Warriors of the said Orchard party of the Oneida Indians known & distinguished in & by the attested list annexed to the above Treaty as the "Home Party" of said Indians do hereby stipulate & agree with the said party of the second part to said Treaty

to have & surrender our lands ceded by the same unto the said party of the second part on the said 4th day of May next any claim or stipulation in the foregoing treaty to the contrary notwithstanding: In witness whereof we have hereunto set our hands & seals this first day of April 1841.

William his + mark Cornelius (LS)

William his + mark Day (LS) William his + mark Johnson (LS)

Cornelius his + mark Snatoyen (LS) Lewis his + mark Johnson (LS)

Abram his + mark Antone (LS) William his + mark Gesa (LS)

Moses his + mark Cornelius (LS) Abram his + mark Snatoyen (LS)

Henry his + mark Christian (LS) Abram his + mark Cornelius (LS)

Signed & sealed by the Chiefs of the Orchard party and also the Headmen & warriors of the said Indians in our presence after the contents of the above stipulation had been fully explained to them in full council. M. Buchard Atty for Oneida Indians
C. Granger Justice of the Peace

Schedule No. 1 consists of a List of all those of Orchard party of Oneida Indians who intend to migrate to the township of Delaware London District Upper Canada or Elsewhere

William Day Chief	Cornelius Snatoyen Chief
Mary Day his wife	Jenny Snatoyen
	Catharine Snatoyen
Jenny Antone	Margaret Snatoyen
Caty Antone	Abram Snatoyen

Aaron Antone
Mary Antone } 4

Elizabeth Williams
Susannah Williams
Dolly Williams } 3

Abram Antone 1

Electa Nicholas
Thomas Nicholas
Margaret Nicholas
Sally Nicholas
Elizabeth Nicholas
Lewis Nicholas alias
Lewis Johnson 6

Abram Cornelius
Margaret Cornelius
Esther Cornelius
Martin Cornelius
Nicholas Cornelius
Henry Cornelius
Jacob Cornelius
John Honeyost } 8

Mary Sickles
Elizabeth Sickles } 2

Dolly Williams 1

Thomas Matoyen
Electa Matoyen
Sally Matoyen
John Matoyen
Margaret Matoyen
Nelly Matoyen
Anthony Williams 12

William Green
Hannah Green
John Green
Henry Green
Electa Green } 5

Total No of Emigrants 44

State of New York
Oneida County } SS.

We the undersigned Chiefs & headmen of the said Oneida Indians being sworn do depose & say that the above attested list is true & correct

his
Mr. + Dey Wm + Cornelius
mark mark

his
Cornelius + Matoyen
mark

his
William + Johnson
mark

Sworn & subscribed before me this 1841
Charles Granger
Justice of the Peace

Ed.

Schedule No. 2 consists of a List of all the Orchard Party of Oneida Indians who intend not at present to sell but to remain on their Reservation situate in the town of Vernon Oneida County & State of New York commonly called the "Home party" of the Orchard Indians

William Cornelius chief
Electa Cornelius
Moses Cornelius
Elizabeth Cornelius
Mary Cornelius
Susannah Cornelius
Polly Cornelius
John Cornelius
Nelly Cornelius
Polly Cornelius
Baptist Cornelius
Elizabeth Cornelius
Jenny Cornelius
Nicholas Cornelius
Mary Cornelius
Henry Cornelius } 16

James Christian
Mary Christian } 2

James Johnson
Margaret Johnson
Hannah Johnson
Peter Johnson
Thomas Johnson
Jacob Johnson } 6

Moses Bay
Susan Bay
Margaret Bay
Sally Bay
Mary Bay } 5

Elizabeth Johnson
Hannah Johnson
Jenny Johnson
Caty Johnson
Sally Johnson } 5

Electa Antone
Henry Johnson } 2

William Johnson 1

William Williams
Polly Williams
John Williams
Joseph Williams
Jonathan Williams } 5

David John
Mary Williams } 2

Anthony Abram
Esther Abram
Elizabeth Abram
Hannah Abram
Henry Abram } 5

Margaret John
Polly John
Thomas John
Caty John
Jim John } 5

Total 54 Lineal descendants

State of New York
Oneida County } ss. We the undersigned Chiefs Headmen of the Orchard party of the Oneida Indians being sworn do say that the above alleged list is correct & further say not.

Wm Johnson his mark Chief. William his mark Chief

Cornelius Chief. William his mark Day Chief
Cornelius his mark Matoyen chief.

Sworn & subscribed in full council the oath being distinctly interpreted to them and interpreted, before me March 13. 1841
Charles Granger
Justice of the Peace

John C. Spencer Secretary of State
John A. Collier Comptroller
C. S. Holley Sur General
Willis Hall Atty Genl

State of New York
Oneida County } We the undersigned chiefs of the Orchard party of the Oneida Indians named in the foregoing Treaty do hereby assent to & concur in the amendment & corrections made by the second part to the above treaty & they shall have the like force and solemnity as if the same were contained in the original Indenture. In witness whereof we have hereto set our hands & seals in lieu of the consent of to this Treaty of the whole Orchard party of said Indians this first day of April in the year of our Lord one thousand Eight hundred & forty one.

William his mark Day chief (L.S.) William his mark Cornelius chief (L.S.) William his mark Johnson chief (L.S.)

his
Cornelius + Matoyen chief (L.S.) Abram + his mark
mark

Cornelius chief (L.S.) Abram + his mark Anton chief (L.S.)

his
Moses + Cornelius chief (L.S.) Henry + his mark
mark

Christian chief (L.S.)

Signed & sealed by the chiefs of the Orchard party of Oneida Indians after the above amendments & corrections in the foregoing Treaty had been read & fully explained to them & to which the said chiefs gave their assent & signatures in our presence at the date above written in full council.

Ex.

Nathan Burchard
Attorney for Oneida Indians
Charles Granger
Justice of the Peace

Examined & compared with the originals by
Arch.d Campbell
Dep. Secretary

An Appraisement of the present Value of all the lands ceded to the people of the State of New York by the First and Second Chiefs & Sachems of the Oneida Indians by the Treaty of March 8. 1841 as the said Land has been ascertained Surveyed appraised described and mapped by the undersigned Nathan Burchard Deputy Surveyor appointed in behalf of the people of the State of New York and the Value of the improvements thereon

Nathan Burchard Surveyor & Appraiser

his
Cornelius + Matoyen chief (L.S.) Abram + chief (L.S.)
mark mark

his
Cornelius chief (L.S.) Abram + Antoni chief (L.S.)
mark

his
Moses + Cornelius chief (L.S.) Henry + chief (L.S.)
mark mark

Christian chief (L.S.)

Signed & sealed by the chiefs of the Orchard party of Oneida Indians after the above amendments & corrections in the foregoing Treaty had been read & fully explained to them & to which the said chiefs gave their assent & signatures in our presence at the date above written in full council.

Ex.

Nathan Burchard
Attorney for Oneida Indians
Charles Granger
Justice of the Peace

Examined & compared with the Originals by
Arch.d Campbell
Dep. Secretary

An Appraisement of the present Value of all the lands ceded to the people of the State of New York by the First and Second Chiefs Parties of the Oneida Indians by the Treaty of March 8. 1841 as the said Land has been ascertained surveyed appraised described and mapped by the undersigned Nathan Burchard Deputy Surveyor appointed in behalf of the people of the State of New York and the Value of of the improvements thereon

Nathan Burchard Surveyor & Appraiser

No. of Lot	Area in acres	Value per acre	Value of whole lot	Value of Improvements	Value Exclusive of Improvements	Names of persons entitled to improvements		Amount
		$	$	$		Mary Skennendoa		$ 50. "
						Elijah Williams		145. "
						Polly Silver		8. "
1	81.95	28	2294.60	345.75	1859.85	Thomas Siloa		65. "
						Caty Cornelius		12. "
						Thomas Somers		24.75
						Poly Somers		92. "
						Thomas Cornelius		38. "
								434.75
2	22	22	484. "	31 "	453 "	Thomas Cornelius		31. "
3	22	22	484 "	51 "	433 "	Peter Webster 2d		51. "
4	21.75	22	478.50	9 "	469.50	Henry Antoine		9. "
						Jennett Doolater	23.	
						Peter Powlis	21.	
5	50.25	28	1407. "	103. "	1304. "	Jenny Powlis	10.	
						Martinus Williams	31.	
						Nicholas Skennendoa	18.	103. "
6	40.40	26.	1050.40	None	1050.40			
7	36.50	28	1022. "	10 "	1012. "	Peter Isaacs		10 "
	274.85		7220.50	638.75	6581.75			638.75

State of New-York Albany County ss. I Nathan Burchard do solemnly swear that the preceding appraisal made by me is just and right according to my judgment and belief.

Nathan Burchard
Deputy Surveyor

Sworn this 30th day of April 1841 Before me
A. L. Holley Surv. Genl

Ex.

First & Second Christian Parties Tract

Schedule

Shewing the whole amount payable to each person for Improvements.

Names	No. Lot		Total amount	
Mary Skenendoa	1		$ 50	..
Elijah Williams	1		145	"
Polly Silver	1		8	"
Caty Cornelius	1		12	"
Thomas Siloa	1		65	"
Thomas Summers	1		24	75
Polly Summers	1		92	"
Thomas Cornelius	1	$ 38.		
" Do	2	31.	69	"
Peter Webster 2d	3		51	"
Henry Antoine	4		9	"
Jennett Jacobs	5		23	"
Peter Powlis	5		21	"
Martinus Williams	5		31	"
Nicholas Skenendoa	5		18	"
Jenny Powlis	5		10	"
Peter Isaacs	7		10	
			$ 638	75

Examined & Compared with the Originals by
Arch.d Campbell
Dep Secretary

An Appraisement of the present value of all the lands ceded and conveyed to the People of the State of New York by the Orchard Party of the Oneida Indians by the Treaty of March 13. 1841 as the said Land has been ascertained Surveyed appraised described and mapped by the undersigned Nathan Burchard Deputy Surveyor and appraiser appointed in behalf of the People of the State of New-York and the value of improvements thereon.

N. Burchard
Deputy Surveyor & Appraiser

No. of Lot	Area in acres	Value per acre	Value of Whole Lot	Value of Improvements	Value Exclusive of Improvements	Names of Parties entitled to Improvements		Amount
		$	$	$	$	Orchard party in Com.		$ 115. "
1	57. 44	28	1608. 32	310. "	1298. 32	Cornelius Matoxen		195. "
								310
2	80.	32	2560. "	444.75	2115. 25	Cornelius Matoxen	67.	
						Jenny Antoine	13.	
						William Day	362.25	
						Moses Day	2.50	444.75
						William Day	37.	
						Cornelius Matoxen	528.	
3	80	33	2640. "	756.	1884. "	Moses Day	48.	
						Abraham Cornelius	73.	
						William Green	17.50	
						Margaret Antoine	20.	
						Polly Day	42.50	756. "
	217. 44		6808. 32	1510.75	5297.57			1510.75

State of New York
Albany County } ss.

I Nathan Burchard do solemnly swear that the preceding appraisal made by me as just and right according to the best of my judgement and

212 belief. J. Purchard
Sworn this 30th day of April
1841 Before me
O.L. Holley Surv. Genl.

Orchard Party Tract

Schedule

Shewing the whole amount payable to each person for improvements

Names	No. of Lot		Total Amount
Orchard Party in Com.	1		$ 115. "
Cornelius Ollatoxen	1	$ 195.	
" do	2	67.	
" do	3	528.	790. "
William Day	2	362. 25	
" do	3	27. "	389. 25
Jenny Antoine	2		13. "
Moses Day	2	2. 50	
" do	3	48. "	50. 50
Abram Cornelius	3		73. "
William Green	3		17. 50
Margaret Antoine	3		20. "
Polly Day	3		42 50
			$ 1510. 75

Ed

Examined and Compared with the Originals by
Arch.d Campbell
Dep. Secretary

New-York, 5th June 1841.

Sir,

Mess.rs Ogden and Tillotson have submitted to the pre-emptive Owners of the Seneca lands a minute of your conversation with them on the 20th of May, from which we learn, not only that you are unwilling to disturb the construction given by the late Secretary to the Government Treaty and Seneca Conveyance of 15th January 1838, going to postpone our right of possession to any part of those lands for five years from the ratification of the Treaty, but that you further contemplate as possible, a decision by the Executive not to carry out the provisions of the Government Treaty at all.

The frankness of this avowal seems to require of the pre-emptive Owners an expression of their own views, under a state of things so unexpected.

We proceed then to state, that their purchase of the Seneca Lands having been made under the supervision of a Commissioned Agent of, and confirmed by, the State of Massachusetts in pursuance of the Compact of Cession between that State and New York, from which the pre-emptive title is derived — having moreover been negotiated in the presence of a Commissioner of the U. S. and ratified by the President and Senate, the pre-emptive Owners deem it to be valid and unimpeachable, and their rights under it, as purchasers, both in regard to title and possession, to be beyond the control of the Government of the U. S. or of the Indian parties.

The incidental question of possession is dependant on a sound legal construction of the Seneca Conveyance, and of such extraneous documents and proofs as may properly serve to control or explain its meaning.

On this question, the pre-emptive Owners have taken professional opinions here, which are wholly at variance with that of the late Attorney General; if indeed, the opinion of that Gentleman is to be understood as impugning our immediate right of possession to the waste lands of the Senecas. Its language however, on this point, is equivocal. The opinion is unsustained by any reasoning — is unaccompanied by any expression of your own deliberate sentiments on the subject, and is altogether so unsatisfactory that we cannot acquiesce in it. —

Whilst on this question of possession, no less than on that of title, the pre-emptive Owners feel entire confidence in the maintenance of their legal rights, they are aware that it is in the power of the Executive, so to arrest and retard the Execution of the Government Treaty, as to leave the Seneca Indians without the assurance of a permanent home, and thus increase the trouble and expence of obtaining the immediate and peaceful possession of the lands purchased from that Tribe, but they cannot believe that such power will be exerted in violation of a public Treaty, now a law of the land; or that any action will be had in this matter, leading to a subversion of private rights, or inconsistent with the public faith.

Various circumstances connected with this transaction, address themselves as we think, to the honor, justice and good faith of the Government with a force so irresistable as to forbid, at this late period, any hesitation on its part, to carry out the Treaty, if the omission to do so shall have a tendency to defeat, postpone — or even cast a shade over our title —

MANUSCRIPT DEPARTMENT

Then we proceed briefly to notice...

The negotiation with the New York Indians was commenced in the fall of 1837; by the Government of the U.S. of; its own accord in furtherance of an object of public policy, and in consequence of a specific appropriation for the purpose by Congress. A sale of the possessory right of the Seneca Tribe to their reserved lands being necessarily connected with their removal, the pre-emptive Owners were invited to take part in the negotiation. They accordingly procured the appointment and attendance of a Superintendent on the part of Massachusetts, as required by the Compact of Cession, and employed Agents to negotiate the terms of a purchase of the Seneca right. The negotiation resulted in a Treaty between the Government, and all the New York tribes, and a simultaneous sale and conveyance to us of the possessory title of the Senecas. Soon afterwards memorials and affidavits in opposition to the Treaty, were presented to the President, which were by him submitted to the Senate and referred to the Indian Committee, on whose report, after full deliberation, the Senate by a unanimous vote, advised the ratification of the treaty with amendments (not affecting in any degree our Contract with the Senecas,) and authorised the President to proclaim it when the amendments should be assented to by the Indian parties. A new Council was held to procure their assent.

Our agents again attended it, and a Superintendent was again appointed and sent from Boston to supervise the proceedings of the new Council. In order to defeat the whole treaty, the ante emigration party were instigated to reject the amendments, which were however assented to by a Majority of the chiefs — objections were again urged by the advisers of the party opposed to Emigration, and the whole subject with further memorials and documents was submitted to the Senate, by whom the question of assent was again referred to the decision of the President —

The then Secretary of War subsequently repaired to the Indian Lands, and held a third Council in person. On his report, the objections were renewed under the same influence, and all the new documents with the views of the President being laid before the Senate, and maturely considered, a resolution was passed in that body, declaring that the amended treaty had in their opinion, been satisfactorily acceded to and approved by the New York Tribes, the Senecas included, and that in the opinion of the Senate, the President was authorized to to proclaim the treaty, as in full force and operation — It was proclaimed accordingly on the 4th April 1840 —

This was understood on all hands, to settle the rights of all parties, and to put an end to Controversy; and so universal was this belief, that the local officers proceeded to assess the lands for taxes, as in the possession of the pre-emptive Owners.

On the faith of the proclamation the pre-emptive Owners entered

upon the fulfillment of various pecuniary Engagements dependent on the ratification of the Treaty, and also commenced the surveying of the lands, in order to an Early division and sale; the Government in the meantime, throughout their correspondence, fully recognizing the validity of the treaty, and its own obligations under it, as a public and binding law of the land. Thus, when in the progress of the surveys the Indians residing on one of the Seneca Tracts (the Tonnewanta Reservation) resisted the surveyor, on pretence that the particular Chiefs on that tract had not signed the Treaty, and we asked the interposition of the Secretary, we were informed, by Letter dated 15 August 1840, "that it was not thought to be the duty of the department to interfere in the matter, further than to induce a right understanding of the Treaty by the Indians, and to convince them that they were bound by it;- and after condemning the principle assumed by those Indians, the Letter proceeds as follows — "The Seneca nation then had the right by its acknowledged authorities, and they alone, to cede the land and the question "is narrowed down to this - have they ceded it? - of that no doubt exists, "nor can the inquiry be permitted, after a treaty has been made with the "Nation, and received the constitutional sanction of the President and Senate. "Of this, and the necessity for their compliance with all the requirements "of the Treaty, an Agent of the Department, who is now on his way to Buffalo, will be instructed to advise them and to satisfy them that there is but "one course left for the Department, in pursuing which, however, every attention shall be paid to their convenience and comfort, and every effort "made to advance their interest."

In a subsequent Letter dated 30 September 1840, we were informed, for the first time, that according to the Secretarys construction of the Treaty the Seneca Indians would be at liberty to continue in the occupation of all their lands for five years after the ratification of the Treaty, but distinctly stating in the same letter, that then, or as soon as that occupation should cease, the possession would be ours.

Our Expenditures in the course of these numerous and protracted Negotiations were very considerable. The Expences and Compensation of the Massachusetts Superintendent, and those of the Agents, with many other incidental charges, devolved upon us; and the Government appropriation being Exhausted, we at the instance of the Department, paid in addition a portion of the Expences of the Treaty, which were properly chargeable to the U.S.

The further advances and liabilities made and incurred by the pre-emptive Owners, after the final ratification of the Treaty, were still more considerable, in fact so large as in case of a failure of their title to subject all of them to great loss, and many to distress and ruin. One of the associates subsequent to the Seneca Conveyance and the ratification of the Treaty by the Senate, purchased a share in these lands, and paid for it at the time, a very large price. Should the Conveyance be rendered inoperative his individual loss at this moment, may be estimated at more than $20.000

In view of these facts, the pre-emptive Owners respectfully but confidently submit, that the Executive cannot now refuse to carry out the Treaty, so as in any manner to prejudice their rights as to the title or possession of the Seneca lands, without a manifest violation of the public faith.

The administration of the Government of this Country is happily subject to change, but the Government itself remains one and the same. Its obligations arising from Contract, or from the unvarying Laws of justice and good faith are therefore binding on the Government, whoever may administer it, and the rights of the Citizens, based on such Obligations, are sacred and immutable

In your conversation with Messrs. Ogden and Tillotson you were pleased to refer to the predominance in numbers of those among the Seneca Indians who are opposed to removal over those who are in favor of it, and also to the state of public Opinion in relation to the Treaty.

On the first of these Suggestions it would be sufficient to remark, that the power to regulate and manage the Concerns of Indian tribes in this State, including that of selling the lands and changing the residence of the tribes, belongs to the Chiefs as supreme Legislators, and has always been exercised by them without reference to private Individuals of the tribes.— What might be the result of an appeal to the mass of this ignorant people for an expression of individual Wishes on the question of removal, if indeed they are capable of understanding the alternatives which might be presented to their choice, it is impossible to say; but if among the numerous tribes which have already gone to the West, their removal had been made dependent on the aquiescence of a numerical majority of the whole population, there is scarcely one of those tribes which would not, at this moment, be in the occupation of their ancient residences. Their habits of idleness, indulgence, and dissipation, the inveteracy of which has for thirty years past led successive Presidents and heads of the war Department, to assume and act on the necessity of their removal, are the very circumstances which with an ever accumulating force, are prompting them to avoid removal.

As to the state of public Opinion there is little before you by which it can be safely estimated — The avidity of white men who, living on and near the Indian lands draw from them, in the article of lumber and otherwise, their principal Means of subsistence, and the inveterate hostility of the Society of friends to the whole policy of the Government, in regard to the New York Indians, led to their early alliance for the purpose of defeating the treaty — the prejudices which they industriously sought to excite and cherish, were to some extent naturally enlisted on the side of those whom they represented to be injured and oppressed, but these have in a great degree been removed by a better understanding of the subject, aided by the calm and concise "Appeal to the christian Community on the Condition & prospects of the New York Indians," under the signature of N. T. Strong a Seneca Chief: — and so far as we can judge, the current of public opinion is now in favor of the treaty — We ask your perusal of that production —

The Errors of the Society of friends on the theory of Indian Civilization, as

on another subject which is made the frequent theme of their animadversion and reproof, may find an apology in their real and want of Knowledge, but charity can suggest none for those manifold departures from the laws of truth, candor & decorum, which, as we think and feel compelled to say, characterize many, if not all, their publications throughout this Controversy.

Their constant design has been to act on the feelings of the Community, and thus a spurious sympathy, to create an Excitement which, under the semblance of public Sentiment, might have its Influence on the deliberations of the President and Senate of the U. S. and even since these have resulted in the final ratification of the treaty, they appear to be still busy in preventing its Execution. How far in this last attempt they may have seen fit to reiterate in Conversation, the Imputations contained in their printed publications on the Conduct and motives of the pre-emptive Owners, is not Known to them, and if Known, would not be deemed worthy of their notice. But we must protest against the reception of all Statements of the Society of Friends, in regard to matters of fact, as any criterion of truth.

We here dismiss this branch of the Subject, again submitting to your serious Consideration, whether any complaints or accusations or any assumption as to the number of Indians opposed to, or in favor of Emigration, after all these objections have been presented to, and investigated and passed on by the late President and Senate in the Exercise of their constitutional power on the question of ratification, can furnish to the present Executive any legitimate ground for declining to carry the treaty into Execution.

Permit us now with great deference and respect, to call your attention to some general Suggestions, which as appears to us, are not unworthy of your consideration —

A large portion of the Oneidas and the whole of the Stockbridge and Brothertown Tribes removed some few years since to Green Bay on the land reserved for the New York Indians by the Treaty with the Menomonies of 1832 — When a seat within the limits of the extensive Territory subsequently set apart by Congress for the permanent home of the Indians generally, was offered to those who still remained in this State, Successive Delegations were sent to explore it, and a majority of the Chiefs of all the Tribes, including (especially among the Senecas) most of those who have embraced Christianity, most of those entitled by age, Experience, intelligence and general worth of character to guide and govern their people, and nearly all their Educated young Men were, under the influence of their own sober reflections and the reiterated admonitions of the Government, led to the conviction that their removal had become indispensable, and becoming the open Advocates of that policy won to their cause a majority of the Chiefs in all the Tribes. Invited by the Government, they held a general Council in 1837, to consider the whole subject, and entered into the present treaty. It has been assailed and impeached by Opponents among themselves, and by more active and powerful opponents, — interested and deluded white men. They have successfully vindicated its fairness. Many of them understand the legal obligations which are thereby fastened on themselves and on the U. S. and those who are less acquainted with our institutions, looking to the plighted faith of their great father, repose with confidence

on his promises. All equally rely on the prompt fulfillment of the Treaty, and a large number of them are already prepared and enrolled for Emigration— Whilst a refusal on the part of the Government to carry out the Treaty, must serve to postpone indefinitely the application to this unfortunate race, of a system of policy dictated by Wisdom and benevolence, and which can alone preserve it from increasing degradation and ultimate Extinction, the consequences of such a course would in every view be deplorable. It would completely prostrate the influence of the Emigration Chiefs, expose them to the reproaches of friends, and the taunts of Enemies, and on the disgrace and downfall of those who alone have listened to and pursued the Presidents advice, would build up and cement the power of their rivals, who have spurned and rejected it. It would destroy all confidence in the Government - unsettle the minds of those now reconciled to removal, and enhance the difficulty of any future negotiation to effect it, when, as at no distant period must be the case, a Seperation of the two populations shall become unavoidable.

The Inhabitants of Buffalo and other Towns in the immediate proximity of the Indians, among other inconveniences, are suffering under the demoralizing effects of a most licentious intercourse between the young of the two populations. Whatever may be your information on the state of Public Opinion, we are persuaded that this state of things will not long be tolerated - that seperation is inevitable - and that it cannot be postponed until the mass of the Indians, ignorant and depraved as the mass is, shall voluntarily concur in it.

Again, let us for a moment advert to the probable, if not the necessary, Consequences in relation to the Seneca Tribe, if a refusal to carry out the Treaty -

We cannot describe their condition under such a Contingency, more effectively than as it is depicted in the address of their great Sachem, the aged and venerated Pollard, to the U.S. Commissioner at the close of the Second Council in the year 1838, which will be found in Strong's "appeal" page 57 -

We have to acknowledge the receipt of Mr. Crawfords letter to Mr. Ogden of the 29th Ult°. promising your attention to this grave and important subject, at the earliest moment when it may be in your power.

We are sensible of the pressure of your Engagements, and should be most unwilling to increase it at this particular juncture. Your recent conversation however, with Messrs Ogden and Pillotson, having brought this whole matter under the deliberate consideration of the Association of pre-emptive Owners, they deem it proper, before it shall be taken up for executive action, to apprize you distinctly of their feelings and opinions; and hence we now present you with this general outline. If hereafter it should be found expedient to go more into detail, we shall hope to be indulged in doing so.

It remains only to submit to you a proposal which deeply concerns our convenience and interests.

From the Letter of the 30th September 1840. addressed to us by the department and already referred to, we extract the following passage on the subject of the Surveys — "It appears to me the rights of all parties "can be substantially guarded and the general convenience and interest "promoted —

According to strict law you can do nothing, having no right "whatever to enter upon the land. Still you have a large interest at "stake and it may be but reasonable that you should make surveys, "so as to judge what you can make of the land when you shall come "into rightful possession of it. It has occurred to the Department, that "if you will give an assurance in writing that you intend to make and "will only make surveys, without in any way disturbing the Indian "possession, — that if in surveying any injury should be done to Indian "property you will make the damage good, and that if you sell, it shall "be subject to the Indian right of possession, these poor people will not, and "I think under all the circumstances, ought not, to object to your making "the Surveys merely. To carry out these views a special Agent (there being "no residend Agent now in New York) who will hand you this letter, has "been dispatched. It will be his duty to explain this matter to the Indians, "and after an interview with you and procuring your agreement to the course "proposed, to convince the Indians that they ought to make no Objection. — and "to procure their assent, for which only is your written pledge important."

Although the position of the Association was then such as to compel many of the members to look to the lands for the means of meeting the heavy Engagements contracted upon and after the proclamation of the Treaty, they could not consent to the last condition imposed upon them by that letter, viz - that all sales should be subject to the Indian right of possession. It involved an abandonment of the disputed question as to the possession of the forest lands — its practical effect would have been greatly to reduce their present value, & to subject us to the waste & destruction of all the timber yet remaining on them — It was deemed unfair and Oppressive, and was therefore promptly declined.

The Surveys are still incomplete. They are essential to a correct understanding of the value of the Lands, and to a partition of the among the Owners, and as they must precede a Sale, the postponement of the Surveys would lead to great and unnecessary delay when a Sale shall be resorted to. — We therefore ask of you that the Seneca Indians may be immediately advised and instructed to withdraw their opposition to the resumption of the Surveys, on our written stipulation that they shall not disturb their possessions - that we will indemnify them against any loss or damage which may arise from the Surveys, and that they shall not be considered as giving to us any new right, or impairing or abridging those of the Indians, in regard to the question of possession.

We trust that you will see in this proposal nothing exceptionable, but on the contrary will, under the circumstances in which we are placed, view it as reasonable and just.

The hon.t
John Bell
Secretary of the War Department

We have the honor to be &c.

(Signed) J. L. Ogden
(Signed) J. Fellowes

That no Indian was present or voted at such council or meeting who was not an habitual resident on the reserve of the said Band of Indians, or interested in the land mentioned in the said release or surrender.

That he is Secretary of the said Band of Indians, and entitled to vote at the said meeting or council.

Sworn before me by the deponents, J. W. Jermyn and Fredk. Lamorandière, at the Village of Martin, in the County of Bruce, this 15th day of July, A. D. 1886.

J. W. JERMYN,
Indian Agent.

WM. BARRETT,
Junior Judge Co. Bruce.

Recorded 5th October, 1886.
Lib. 106, Folio 519.
L. A. CATELLIER,
Dep. Registrar-General of Canada.

No. 227.

Surrender to Her Majesty the Queen of Lot 18 in Concessions C and D, containing 400 acres, by John Harris and his wife, in trust for the Oneida Nation of Indians.

THIS INDENTURE, made the twenty-first day of July, in the year of Our Lord one thousand eight hundred and forty-one, between John Harris, of the Town of London, in the County of Middlesex, in the District of London and Province of Canada, Esquire, and Amelia Harris, wife of the said John Harris, of the one part, and Her Most Gracious Majesty Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, of the other part :

Witnesseth, that the said John Harris for and in consideration of the sum of three hundred pounds of lawful money of the Province of Canada to him in hand paid at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, aliened, transferred, surrendered and yielded up, and by these presents doth grant, bargain, sell, alien, transfer, surrender and yield up, unto Her said Majesty, Her heirs and successors, all and singular those certain parcels or tracts of land and premises situate, lying and being in the Township of Delaware, in the County of Middlesex, in the London District and Province aforesaid, containing together by admeasurement four hundred acres, be the same more or less, and being known as lots numbers eighteen in Blocks C and D, in the said Township of Delaware ; which said lot eighteen in Block C is butted and bounded as follows, that is to say :

Commencing at the easterly corner of the said last mentioned lot at the allowance for road between lots numbers eighteen and nineteen ; then south seventy degrees, west sixty-seven chains fifty links, more or less, to the allowance for road between Blocks C and B; then north twenty degrees, west twenty-nine chains eighty links, more or less ; then north seventy degrees, east sixty-seven chains fifty links ; then south twenty degrees, east twenty-nine chains eighty links, more or less, to the place of beginning ; and which said lot eighteen in Block D is butted and bounded as follows, that is to say :

Commencing at the easterly corner of said last mentioned lot at the allowance for road between lots numbers eighteen and nineteen; then south seventy degrees, west sixty-seven chains fifty links to the allowance for road between Blocks D and C, then north twenty degrees, west twenty-nine chains eighty links; then north seventy degrees, east sixty-seven chains fifty links ; then south twenty degrees, east twenty-nine chains eighty links, more or less, to the place of beginning.

Together with all and singular the tenements, hereditaments and appurtenances thereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and of every part and

parcel thereof ; and also all the estate, right, title, interest, trust, claim, property and demand whatsoever, either at law or in equity of him the said John Harris, of, in, to or out of the same premises, and of every part and parcel thereof.

To have and to hold the said parcels or tracts of land and premises with the appurtenances unto Her Majesty, Her heirs and successors forever, freed and discharged from all and all manner of incumbrances whatsoever, in trust, nevertheless, to and for the use, benefit and behoof of the Oneida Nation of Indians, now settled in the said Township of Delaware, and their posterity forever; and the said John Harris, for himself, his heirs, executors and administrators, doth covenant, grant and agree to and with Her Majesty, Her heirs and successors, that he, the said John Harris, is the true, lawful and rightful owner of all and singular the said parcels or tracts of land and premises, and every part and parcel thereof, and now is lawfully and rightfully seized in his own right of a good, sure, perfect, absolute and indefeasible estate of inheritance in free simple of and in the premises above mentioned ; and further, that he, the said John Harris and his heirs, and all and every other person or persons, and his and their heirs having or lawfully claiming any estate, right, title, trust or interest of, in or to the said premises above mentioned and described, or any part thereof, by, from or under him, them or any of them shall and will at all times hereafter when required by Her Majesty, Her heirs and successors, make, do and execute all and every such farther and other lawful acts, conveyances and assurances in the law for the better and more perfect granting, assuring, conveying, surrendering and yielding up of all and singular the premises above mentioned and described, with the appurtenances, unto Her Majesty, Her heirs and successors, as Her Majesty, Her heirs or successors, Her or their counsel learned in the law, may be reasonably devised, advised or required.

And this Indenture also further witnesseth, that the said Amelia Harris, wife of the above named John Harris, for and in consideration of the sum of five shillings of lawful money aforesaid to her, by Her said Majesty, in hand paid, at or before the ensealing and delivery hereof, the receipt whereof is hereby acknowledged, hath remised, released, and forever relinquished, and by these presents doth remise, release and forever relinquish unto Her said Majesty, Her heirs and successors, upon the trust and for the use aforesaid, all and all manner of dower and right or title of dower whatsoever which the said Amelia, in the event of surviving the said John Harris, her husband, might or of right ought to have, claim or demand in, to and out of the said parcels or tracts of land and premises above mentioned, and every part and parcel thereof, and all manner of action or actions, and writ or writs of dower whatsoever.

In Witness Whereof, the said John Harris and Amelia, his wife, have to these presents set their hands and affixed their seals the day and year first hereinbefore written, and in the fifth year of Her Majesty's reign.

Signed, sealed and delivered in presence of } JOHN HARRIS. [L.S.]
AMELIA HARRIS. [L.S.]

Henry C. R. Beecher, of London, aforesaid,
Attorney-at-Law.

Received at the time of execution of the within Indenture the sum of three hundred pounds, being the full consideration in the said Indenture named to be paid to me.

In presence of } JOHN HARRIS.
Henry C. R. Beecher.

Department of the Secretary of State for Canada.
Ottawa, 24th March, 1868.

I hereby certify that the foregoing surrender has this day been duly entered on the records of this office in Lib. K. M., Folio 27.

HECTOR L. LANGEVIN,
Secretary of State and Registrar of Canada.

DEPARTMENT OF THE SECRETARY OF STATE OF CANADA,
REGISTRAR'S BRANCH, OTTAWA, 8th January, 1887.

I hereby certify the within to be a true and faithful copy of the record of the original surrender as entered in Lib. K.M., Fol. 27.

L. A. CATELLIER,
Dep. Registrar-General of Canada.

No. 28.

Deed of surrender from Charles Baby to Her Majesty Victoria.

THIS INDENTURE, made the ninth day of October, in the year of Our Lord one thousand eight hundred and forty, between Charles Baby, of the Town of Sandwich, in the western district of the Province of Upper Canada, Esquire, of the one part, and Her Most Gracious Majesty Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, of the other part.

Whereas, by a certain agreement lately made by and between the said Charles Baby, of the one part, and the Principals of the Oneida Nation, by their Agent, of the other part, and ratified and approved of by the Chief Superintendent of Indian Affairs in this Province, the said Charles Baby, for and in consideration of the sum of one hundred and fifty pounds, of lawful money of the Province aforesaid, did agree to grant, bargain, sell and convey to or to the use of or in trust for them, the said Principals of the Oneida Nation, a certain parcel or tract of land and premises, situate, lying and being in the Township of Delaware, in the London District, and Province aforesaid, which is hereinafter more particularly described.

And whereas in the making of the agreement for the selling and conveying of the said land and premises as aforesaid it was desired that the said land and premises should be conveyed to them by a deed of surrender to Her Majesty, Her heirs and successors, in trust for them the said Oneida Nation.

And whereas the said Charles Baby did then and there agree to execute such surrender as requested, and is now desirous of perfecting the said agreement and executing a surrender of the said land and premises unto Her Majesty, Her heirs and successors, as agreed upon as aforesaid.

Now this Indenture witnesseth, that the said Charles Baby, for and in consideration of the sum of one hundred and fifty pounds of lawful money of the Province aforesaid to him in hand paid at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, delivered, transferred, surrendered and yielded up, and by these presents doth grant, bargain, sell, alien, transfer, surrender and yield up unto Her Majesty, Her heirs and successors forever, all that certain lot, parcel or tract of land lying and being in the Township of Delaware, in the London District, in the Province aforesaid, containing two hundred acres, be the same more or less, and known as lot number "twenty," in Concession C of the said township, which said parcel or tract of land is butted and bounded as follows, that is to say: Commencing in front of the said Concession C, at the north-west angle of the said lot; then north seventy degrees, east sixty-seven chains fifty links, more or less, to allowance for road in rear of said concession; then south twenty degrees, east twenty-nine chains eighty links, to the southernmost limit of said lot, then south seventy degrees, west sixty-seven chains fifty links, more or less, to allowance for road in front of said concession; then north twenty degrees, west twenty-nine chains eighty links, more or less, to the place of beginning.

Together with all and singular the tenements, hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and the reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand of him the said Charles Baby of, in, to or out of the same, and every part and parcel thereof.

To have and to hold the same, with the appurtenances, to Her Majesty, Her heirs and successors, freed and discharged from all encumbrances whatsoever, in trust,

No. 229.

Deed of surrender from C. E. Casgrain and E. B. Casgrain to Her Majesty, Victoria.

THIS INDENTURE, made the fourteenth day of September, in the year of Our Lord one thousand eight hundred and forty-one :

Between the Honourable Charles E. Casgrain, of the River Ouelle, in District of Quebec, Province of Canada, and Eliza Baby Casgrain, his wife, of the one part, and Her Most Gracious Majesty Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, of the other part :

Whereas, by a certain agreement made by and between the said Charles Casgrain and Eliza, his wife, of the one part, and the Principals of the Oneida Nation, by their Agent, of the other part, and ratified and approved by the Chief Superintendent of Indian Affairs in the Province of Canada, the said Charles Casgrain and Eliza, his wife, for and in consideration of the sum of four hundred and twelve pounds twelve shillings of lawful money of the said Province of Canada, did agree to grant, bargain, sell and convey to, or to the use of or in trust for them the said Principals of the Oneida Nation, a certain parcel or tract of land and premises, situate in the township of Delaware, in the County of Middlesex, in the District of London and Province of Canada, which is hereafter more particularly described. And whereas on the making of the agreement for the selling and conveying of the said land and premises as aforesaid, it was desired that the said land and premises should be conveyed to them by a deed of surrender to Her Majesty, Her heirs and successors, in trust for them the said Oneida Nation. And whereas the said Charles Casgrain and Eliza, his wife, did then and there agree to execute such surrender as requested and are now desirous of perfecting the said agreement and executing a surrender of the said land and premises unto Her Majesty, Her heirs and successors, as agreed upon as aforesaid.

Now this Indenture witnesseth, that the said Charles Casgrain and Eliza, his wife, for and in consideration of the sum of four hundred and twelve pounds ten shillings of lawful money of the said Province of Canada to them in hand paid by the said Oneida Nation, the receipt whereof is hereby acknowledged, have and each of them hath granted, bargained, sold, aliened, transferred, surrendered and yielded up, and by these presents do, and each of them doth grant, bargain, sell, alien, transfer, surrender and yield up unto Her said Majesty, Her heirs and successors for ever, all and singular those certain parcels or tracts of land and premises situate, lying and being in the Township of Delaware, in the County of Middlesex, in the District of London, and Province of Canada, being composed of lot number twenty in Concession B, containing by admeasurement two hundred acres, and the west half of lot number twenty-one in Concession B, containing by admeasurement one hundred acres, and lot number sixteen, with the broken front in Concession D, containing by admeasurement two hundred and fifty acres, be the same more or less, together with all and singular the tenements, appurtenances and hereditaments thereunto belonging or appertaining. And all the estate, right, title, interest, property, claim and demand whatsoever, either at law or in equity, of them the said Charles Casgrain and Eliza, his wife, of, in, to or out of the same, or any part thereof.

To have and to hold the same with the appurtenances, to Her said Majesty, Her heirs and successors, freed and discharged from all incumbrances whatsoever ; in trust, nevertheless, to and for the use, benefit and behoof of the said Oneida Nation, as before mentioned, forever ; and the said Charles Casgrain, for himself, his heirs, executors and administrators, and for the said Eliza, his wife, and her heirs, doth covenant, promise and agree to and with Her said Majesty, Her heirs and successors, that the said Charles Casgrain and Eliza, his wife, now are the true and lawful owners of all and singular the said parcels or tracts of land and premises above mentioned, and every part thereof, and now are lawfully seized in their own right of a good, sure, perfect, absolute and indefeasible estate of inheritance in fee simple of and in the

premises hereby granted, bargained, sold, surrendered and yielded up, or intended so to be, without any condition or limitation of use, or uses, or any other matter or thing, to alter, change, incumber or defeat the same.

And further, that he, the said Charles Casgrain and his heirs, executors and administrators, and the said Eliza, his wife, and her heirs, shall and will at all times hereafter, upon the reasonable request and at the proper cost and charges of Her said Majesty, Her heirs and successors, make, do and execute all and every such further and other lawful act and acts, devices, conveyances, assurances and surrenders, in the law whatsoever, for the further, better and more perfect granting, conveying and assuring, surrendering and yielding up of all and singular the said premises above mentioned with appurtenances, unto Her said Majesty, Her heirs and successors, as by Her said Majesty, Her heirs and successors, Her or their counsel, shall be reasonably devised, advised or required.

In Witness Whereof, the said Charles Casgrain, and Eliza, his wife, have hereunto set and put their hands and seals on the day and year first above written.

ELIZA BABY CASGRAIN. [L.S.]
C. E. CASGRAIN. [L.S.]

Signed, sealed and delivered in presence of }
A. Manahan,
J. P. for the Midland District of the Province of Canada.
William Wilson,
J. P. for the Midland District of the Province of Canada.

Anthony Manahan and William Wilson, of the Town of Kingston, in the Midland District of the Province of Canada, Esquires, two of Her Majesty's Justices of the Peace of the said district, do hereby certify that on this fourteenth day of September, in the year of Our Lord one thousand eight hundred and forty-one, the within deed of surrender was duly executed in the presence of us by Eliza Baby, wife of Charles E. Casgrain, one of the grantors therein named, and that the said Eliza Baby, at the time and place, being examined by us apart from her husband, did appear to give her consent to depart with her estate in the lands mentioned in the said deed, freely and voluntarily, and without coercion, or fear of coercion, on the part of her husband, or of any person or persons whatsoever.

A. MANAHAN, *J. P.*,
WM. WILSON, *J. P.*

Kingston, 14th September, 1841.

£412.10 C'y.

Received of Saml. P. Jarvis, Chief Superintendent of Indian Affairs, the sum of four hundred and twelve pounds 10s. c'y., being the consideration money in full to be paid to me as mentioned in the within deed of surrender.

C. E. CASGRAIN.

Witness }
H. Dupuy. }

Office of the Secretary of State for Canada,
Registrar's Branch, Ottawa, 22nd April, 1868.

I hereby certify that this indenture has this day been entered on the records of this office in Lib. C. S., Folio 333.

HECTOR L. LANGEVIN,
Secretary of State and Registrar of Canada.

DEPARTMENT OF THE SECRETARY OF STATE OF CANADA,
REGISTRAR'S BRANCH, OTTAWA, 8th January, 1887.

I hereby certify the within to be a true and faithful copy of the record of the original deed of surrender to the Crown as entered in Liber C. S., Folio 333.

L. A. CATELLIER,
Deputy Registrar-General of Canada.

No. 2[illegible]

Michael C. Macnamara to Her Most Gracious Majesty. Deed of surrender of Lot No. 22, Con. D, Delaware, London District. Dated 26th of November, 1840.

THIS INDENTURE, made the twenty-sixth day of November in the year of Our Lord one thousand eight hundred and forty, between Michael C. Macnamara, of the City of Toronto, in the Home District of the Province of Upper Canada, gentleman, of the one part, and Her Most Gracious Majesty, Victoria by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, of the other part.

Whereas, by a certain agreement lately made by and between the said Michael C. Macnamara, of the one part, and the principals of the Oneida Nation by their agent of the other part, and ratified and approved of by the Chief Superintendent of Indian Affairs in this Province, the said Michael C. Macnamara, for and in consideration of the sum of one hundred and fifty pounds of lawful money of the said Province, did agree to grant, bargain, sell and convey to or to the use of or in trust for them the said Principals of the Oneida Nation a certain parcel or tract of land and premises situate in the Township of Delaware, in the London District and Province aforesaid, which is hereinafter more particularly described.

And Whereas, on the making of the agreement for the selling and conveying of the said land and premises as aforesaid it was desired that the said land and premises should be conveyed to them by a deed of surrender to Her Majesty, Her heirs and successors, in trust for them the said Oneida Nation.

And Whereas, the said Michael C. Macnamara did then and there agree to execute such surrender as requested, and is now desirous of perfecting the said agreement and executing a surrender of the said land and premises unto Her Majesty, Her heirs and successors, as agreed upon as aforesaid.

Now this Indenture witnesseth, that the said Michael C. Macnamara, for and in consideration of the sum of one hundred and fifty pounds of lawful money of the said Province to him in hand paid by the said Oneida Nation, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, aliened, transferred, surrendered and yielded up, and by these presents doth grant, bargain, sell, alien, transfer, surrender and yield up unto Her said Majesty, Her heirs and successors forever, all and singular that certain parcel or tract of land and premises situate, lying, and being in the Township of Delaware, in the London District and Province aforesaid, containing two hundred acres, more or less, and known as lot number twenty-two in Concession D, of the said township, which said parcel or tract of land and premises is butted and bounded as follows, that is to say: Commencing at the north-west angle of said lot; then north seventy degrees, east sixty-seven chains fifty links, more or less, to the allowance for road in rear of the said concession; then south twenty degrees, east twenty-nine chains eight links, more or less, to the southernmost boundary of the said lot; then south seventy degrees, west sixty-seven chains fifty links, more or less, to allowance for road in front of the said concession; then north twenty degrees, west twenty-nine chains eight links, more or less, to the place of beginning.

Together with all and singular the tenements, appurtenances and hereditaments thereunto belonging or appertaining, and all the estate, right, title, interest, property, claim and demand whatsoever, either at law or in equity, of him the said Michael C. Macnamara of, in, to or out of the same.

25th Congress, 2d Session.

Rep. No. 73.

Ho. of Reps.

SCHOOL LANDS TO CERTAIN TOWNSHIPS IN OHIO.

[To accompany bill H. R. No. 109.]

FEBRUARY 9, 1842.

Mr. BREWSTER, from the Committee on the Public Lands, made the following

REPORT:

The Committee on the Public Lands, to whom was referred, from the files, a resolution adopted by the House of Representatives, at the 2d session of the 25th Congress, instructing the committee "to inquire into the expediency of reporting a bill providing for the selection of other school lands for the townships lying within the Indian reservations, in the State of Ohio, (hereinafter mentioned,) latterly purchased of the Indians by the United States, (the section 16 in those reservations having been decided not to be appropriated for the support of schools,") together with the resolution of the Legislature of the State of Ohio, and sundry memorials on that subject, report:

That, from the papers submitted to this committee, it appears that the subject-matter of the resolution was carefully examined into by the Committee on the Public Lands at the first session of the last Congress, and a report made thereon, fully presenting the facts in the case, together with a bill to secure to the townships, within the reservations referred to in the resolution, the value of the appropriations of the sections 16, respectively, included in those reservations for the use of schools. The bill was not definitively acted upon by the last House of Representatives, for want of time. This committee, having now reviewed the subject, adopt, and herewith return to the House, the report of the committee of the last Congress, together with a bill to carry into effect the object of the resolution.

APRIL 20, 1838.

The Committee on the Public Lands, instructed by a resolution of the House of Representatives of the 2d of January last, "to inquire into the expediency of reporting a bill providing for the selection of other school lands for the townships lying within the Indian reservations in the State of Ohio, (hereinafter mentioned,) latterly purchased of the Indians by the United States; the sections 16 in those reservations having been decided not to be appropriated for the support of schools. The reservations to be included in the provisions of the bill are as follows, viz: the Ottowa reservation, on Blanchard's creek; Ocquanoxa's village; the Lewistown reservation; the Wapaukonetta reservation; the Hog creek reservation; the Big-spring reservation, (Wyandots;) the Seneca reservation, on Sandusky

river; the Ottowa reservation, on the Maumee river, near Lake Erie, having had the instructions under consideration, report a bill on the subject.

The occasion for legislating in the matter of said resolution will be best understood from various communications from the Commissioner of the General Land Office, and the opinion of the Attorney General of the United States, which have been submitted to the committee, and are herewith presented. The committee ask that they may be received as parts of this report, and recommend that they be printed for the information of the House.

GENERAL LAND OFFICE, *December* 19, 1837.

SIR: I have the honor to acknowledge the receipt of your letter of the 15th instant, respecting the 16th sections in certain Indian reserves in the State of Ohio.

The land officers at Bucyrus and Lima, within whose districts these reserves are situated, were advised, on the 27th of April last, that, in accordance with a recent decision of the Attorney General of the United States, the sixteenth sections therein are *not* to be considered as appropriated for the support of schools, but will have to be sold for the benefit of the Indians, and that the inhabitants of the townships will have to make application to Congress for other school lands in lieu thereof. These sections, never having been offered at public sale, are not now subject to private entry.

The reserves referred to in these instructions are as follows, to wit:

The Ottowa reserve, on Blanchard's creek, and Ocquanoxa's village; the Lewistown reservation; Wapaukonetta and Hog creek reservations; the spring reserve, (Wyandots;) the Seneca reserve, on Sandusky river; and the Ottowa reserve, on the Maumee river, near Lake Erie.

The sixteenth sections, within the limits of that portion of the great Wyandot reservation ceded by the treaty of the 23d of April, 1836, were embraced in the President's proclamation of the 12th of December of that year for the sale of those lands at Marion, and are the only sections of that number, in any of the lands ceded for the benefit of Indians in Ohio, which have been proclaimed for sale.

I have the honor to be, sir, your obedient servant,

JAS. WHITCOMB, *Commissioner*

Hon. P. G. GOODE,
House of Representatives.

GENERAL LAND OFFICE, *March* 1, 1838.

SIR: In reply to your letter of the 24th ultimo, I have the honor to enclose a copy of the opinion of the Attorney General of the United States deciding that the sixteenth sections within the limits of the reserves in the State of Ohio, stipulated by treaty to be sold for the benefit of the Indians, are not to be considered as appropriated for school purposes; with a copy of the instructions to the land officers, notifying them of said decision; and to state that none of those sections have been proclaimed for sale, or brought into market, with the exception of two fractional sections, within the

of that part of the Wyandot reserve ceded by the treaty of the 23d of October, 1836.

I have the honor to be, with great respect, your obedient servant,

JAS. WHITCOMB, *Commissioner.*

Hon. P. G. GOODE, *House of Representatives.*

GENERAL LAND OFFICE, *April* 27, 1837.

GENTLEMEN: I have to state, for your information, that the Attorney General of the United States has decided that where former Indian reservations in your district have been ceded to the United States with a view to their being sold for the benefit of the Indians, sections numbered 16, in such cessions, are not to be considered as appropriated for schools, but will have to be sold as the other ceded lands; and the inhabitants of the townships will have to make application to Congress for the appropriation of other lands for school purposes in lieu thereof.

The sections which have been withheld from sale, under the supposition that they were appropriated for schools, will therefore be proclaimed for sale whenever the President shall direct.

I am, &c.

JAS. WHITCOMB, *Commissioner.*

The REGISTER and RECEIVER, *Lima, Ohio;* and
The REGISTER and RECEIVER, *Bucyrus, Ohio.*

ATTORNEY GENERAL'S OFFICE, *April* 15, 1837.

SIR: In your letter of the 5th instant, you ask my opinion on the following question, proposed by the Commissioner of Indian Affairs:

"Does the first proposition, in the 7th section of the act of April 30, 1802, 'to enable the people of the eastern division of the Northwestern Territory to form a constitution and State Government,' vest in a township a title to the sixteenth section for school purposes, superior to that of a reservee under a treaty by which the Indian title to the land was extinguished?"

I have the honor to inform you, in reply, that, according to the opinion given by me on the 31st of March, 1836, in the case of the Choctaw treaty, (to which I beg leave to refer,) the above question must be answered in the negative.

I am, sir, very respectfully, your obedient servant,

B. F. BUTLER.

Hon. J. R. POINSETT, *Secretary of War.*

ATTORNEY GENERAL'S OFFICE, *March* 31, 1836.

SIR: In your letter of the 15th instant, you ask my opinion on the question, "whether, under the provisions of the acts of Congress providing for the admission of Alabama and Mississippi into the Union, respecting the grant of the sixteenth section in each township for the use of schools, reservations for claimants under either of the articles of the Choctaw treaty of 1830 can be located on that section?"

The sixth section of the act to enable the people of the Alabama Territory to form a State constitution, &c., approved March 2, 1819, offered, among other things, to the convention about to be held, the following proposition, viz: "that the section numbered sixteen in every township, and where such section has been sold, granted, or disposed of, other lands equivalent thereto and most contiguous to the same, shall be granted to the inhabitants of such townships for the use of schools."

This proposition, having been accepted by the convention, became, and is, obligatory on the United States; that is to say, the faith of the nation is pledged to execute it literally, provided the Government of the United States possess or can acquire the ability to do so.

But the words do not amount to a present grant; on the contrary, the engagement is executory, and no particular time is specified for its fulfilment. Reason and good faith, however, require that it be executed from time to time, as fast as the United States shall be able to designate the sections, and to convey a good title therein; but if, for any cause, the United States should be incapable of a literal execution, or should refuse to execute, the inhabitants of Alabama would have no other means of obtaining compensation or redress than such as might be found in an appeal to Congress.

In regard to that part of the Territory of Alabama which, in 1819, was occupied by the Choctaws, it is also to be observed, that the United States were incapable of making any grant thereof, except subject to the Indian right of occupancy. As to the Choctaw country, the proposition above quoted must, therefore, be regarded as subject to the implied condition that the United States should be able so to extinguish the Indian title as to enable them to execute the engagement according to its terms.

The provisions of the Choctaw treaty, which secure to persons of that tribe certain reservations of land, were indispensable parts of the means to which the United States were obliged to resort to extinguish the Indian title; and as no exception was contained in that treaty of the sixteenth section, nor any allusion made to the compact with Alabama, it would be unjust towards the Indians, and an infraction of the treaty, to prevent them from locating on those lands, as between the Indians and the United States, the treaty itself is the only measure of their respective rights: and no restriction not founded in that instrument can be imposed on the right of locating the reservations secured by it.

Even, therefore, had the engagement of the United States been positive to grant to the State of Alabama the sixteenth section, I should hold, in the case which has actually occurred, that the claimants under the treaty could not be affected by it.

But the agreement is not exclusively confined to that section. It contemplates the contingency of that section's being otherwise disposed of, and makes provision for such an event. So far as that part of the Territory which was occupied in 1819 by the Choctaw Indians is concerned, I think the words "and where such section has been *sold, granted, or disposed of*," must be considered as applicable to the state of things which should exist when the Indian title should come to be extinguished; and then the sixteenth section, if claimed by an Indian reservee under the Choctaw treaty, will have been "*disposed of*," within the meaning of the original proposition; and, in that case, it is expressly provided that *other* equivalent and contiguous lands are to be granted.

I do not find any special provision relative to the sixteenth section in the acts concering the State of Mississippi.

I have the honor to be, very respectfully, your obedient servant,

B. F. BUTLER.

Hon. LEWIS CASS,
Secretary of War.

Indian reserves in the State of Ohio, the sixteenth sections within the limits of which, the Attorney General has decided, are not to be considered as school lands, and must be sold for the benefit of the Indians.

Ottowa reserves, ceded by the treaty of 30th August, 1831: on the Maumee river and Ocquanoxa's village.

Senecas and Shawnees, ceded by the treaty of 20th July, 1831: Lewistown reserve.

Shawnees, ceded by treaty of 8th August, 1831: Wapaukonetta and Hog creek.

Wyandots, ceded by treaty of 19th January, 1832: Big-spring reservation.

Senecas, ceded by treaty of 28th February, 1831: on the Sandusky river.

Wyandots, a part of their large reserve, ceded by treaty concluded on the 23d April, 1836.

to the Commissioner pro tem. I have been informed that two years were named by the committee because of the probability that within that period there would be a reorganization of the Indian Department, when provision could be made to put those clerkships on a permanent basis —

Very &c.

J. M. C.

Hon.

101. James Cooper

Ch. Com. on Ind. Affairs. Ho. R.

War Department

Office Ind. Affairs

February 12th 1842.

Sir,

In obedience to the call of the Committee on Indian Affairs of 17th. ult. I have the honor to transmit herewith copies of such papers as are considered to come within the call —

In addition to that I beg leave to refer you to confidential Senate document E. No. 1. 2 session 25 Congress, and also to confidential Senate document B. 1 Session 26 Congress, as furnishing additional information on the subject of the New York treaty — I refer to the above documents, under the full impression that the injunction of secrecy has been removed by the Senate —

Very &c. J. M. C.

The following is a list of the papers transmitted herewith:

Letter from	William Chew & others	dated	February	7.	1840.
"	Seneca Chiefs	"	Sept.	6.	1840.
"	M. B. Pierce	"	Sept.	7.	1840.
"	William H. Duncan	"	Sept.	23.	1840.
"	Seneca Chiefs	"	Sept.	1.	1840.
Extract	D. Kurtz	"	Sept.	22.	1840.
Letter "	Secretary of War	"	Sept.	30.	1840.
"	Wm. Chew & others	"	Nov.	9.	1840.
Affidavit	H. B. Potter & others	"	Nov.	10.	1840.
Letter from	J. L. Ogden	"	Nov.	28.	1840.
"	N. T. Strong	"	Nov.	28.	1840.
"	J. L. Ogden	"	Nov.	30.	1840.
"	Seneca chiefs	"	Nov.	25.	1840
Report of	William Clement	"	Dec.	15.	1840.
Letter from	Jno Kennedy Secretary for the Seneca's	—	no date.		
" from	Seneca White & others		Feby.	23d.	1841.
"	Seneca Indians		March	4.	1841.
"	Henry Two Guns & M. B. Pierce		"	9.	1841.
"	Ogden & Fillows		April	20.	1841.
"	Benjamin Waterman		May	7.	1841.
"	Ogden & Fillows		June	8.	1841
"	Thos. L. Ogden		July	17.	1841.
"	Seneca Chiefs		Oct.	28.	1841.
Affidavits of	Wm. Mountpleasant & others		Dec.	15.	1841.

Hon.

War Department

Samuel B. Potter Esq

Newyork 16th feby 1842

Dear Sir

I have recieved your letter of the 9th inst. My attention had been previously called to the proceedings at Albany and measures taken to counteract them. Mr Dixon's resolution has been laid on the table and will remain there. The pending negotiation with the friends of the discontented Indians was urged as a conclusive reason for this course, and unless that negotiation should fail, I take for granted that we shall hear no more about investigation &c

I shall write again to the Secretary of War on the subject of the depredations going on upon the reservations, and request him, if it be not already done, to give positive instructions to the new Agent, of whom I have heard a very favorable report as to efficiency of character and in all other respects

If Dr Wilcox has ceased to act as our Agent he ought so to have informed us. I see no cause whatever for his relinquishing the Agency - &c, like every other man, is subject to misrepresentation both as to Conduct & motives, but when such attacks proceed from third parties they can furnish no excuse for a dereliction of duty towards his principals, unless they adopt, or encourage, or suppress the charges, neither of which has been done by Mr Fellows or me.

I am called on to pay a considerable

amount on my Shares in the reservation lands and also on the shares formerly belonging to Woodbridge and Wilson, (of which I am trustee in part) in order to reimburse a large balance due from the Company to Mr. Fellows. I have not funds to meet this Call, and have been obliged to ask Mr. Fellows to wait until I can obtain what may be in your hands applicable to these five shares I expected at the close of the year to have received your accounts and a remittance of the amount on hand. I have now to request that you will send me these accounts without delay, and make the remittance to Mr. Fellows giving me advice of the particulars.

We have concluded an arrangement with the Quakers by which we are to keep the whole of the Buffalo & Tonnewanta reservations, and the Indians (under their original title) the whole of the Cattaraugus and Allegany reservations. We could do no better, and the question as to the five years occupation, being decided against us by our own Counsel, there was no other Way by which to render any of the property available, at sooncst, before April 1845. and then we should be exposed to a long expensive and most disagreeable course of litigation, sustained against us by a rich & powerful Society & by all the prejudices they have found means to excite.

The Consideration Money and the ~~value~~ amount of the Improvements to be in proportion to their relative value & this to be settled by arbitrators

The Quakers have sent, or ~~about~~ are about sending, a delegation to reconcile the Indians to this Arrangement, in which I think they will not experience much if any difficulty.

our Influence, and I trust yours, will be exerted to the same End. but it must be understood, that we are not be subjected to any new demands.

When the Quakers are ready, we shall fix on a day for holding the Council, and also the place, on which last point I should like to have your Opinion. The attendance of a Superintendent on the part of Massachusetts will be necessary, and also that of a Commissioner of the U. S. - until we are all ready to act, I think it best to say nothing on the subject, and I desire therefore that this Communication be confined to yourself and to your Co-Contractors Messrs Allen & Wilcox.

I am very respectfully
Yours
T. L. Ogden

Thos. L. Ogden
March 12. 1842

Recd. Mar. 15.

Office
N.Y.

Thomas B. Potts Esq.

68. Spencer Ambrose

C. S. W.

Lyons, New York.

17th February 1842

Sir

I have the honor to send herewith a letter of appointment constituting you a Commissioner on the part of the United States "to hold a treaty with the Seneca tribe of Indians residing in the Western part of the State of New York" and, by direction of the Secretary of War, to accompany it by instructions, on executing the trust confided to you.

You are aware that the treaty made with this and other tribes of Indians in Western New York, and proclaimed in 1840, has been much objected to and discussed. The object of your appointment is to settle the litigated points, and to remove all ground for the allegation that the Senecas have not been fairly dealt by. This can only be effected by a modification of the treaty of 1838, and by the exercise of a conciliatory spirit, on all sides.

The Treaty referred to is unlike those recently negotiated by the United States with other Indian tribes. The General Government is no further concerned, nor its interests further involved, than as it is important to relieve an already flourishing and still advancing portion of the Territory of New York from the incumbrance of Indian population, and those Indians themselves from the temptations that surround them where there they now are. To effect these objects the United States expressed their willingness by the treaty to expend a large sum of money, but the real parties in interest, so far as relates to the cession from the Senecas are those who hold the reversionary interest in the land, which was derived from the State of Massachusetts, under the convention between this State and New York at Hartford, Connecticut in 1786.

The basis of the proposed arrangement is one of compromise by which the reversioners will relinquish to the Indians a portion of the territory conveyed to them in 1838, and the Indians a proportional part of the consideration that was agreed to be paid for it. There is much more land embraced in small reservations than the Senecas can use. The surrender of such of them as may be agreed upon, and the release by the reversioners on terms, securing to them whatever rights they had prior to the making of the treaty of 1838, and to the Indians

a proportion of the money consideration, payable by Ogden and Fellows, under that instrument, calculated on the principle of the proportion that the whole land embraced in the cession will bear to the portion of it that shall be conveyed to the above purchasers by the proposed modification, will effect the adjustment of this vexatious matter.

The reservations nearest to Buffalo are those which it may be most agreable to the Senecas to yield. They would thus be farthest removed from the vicinity of the Whites, and there will be the least interference with the progress of improvement of that important section of the state.

It will be proper to make provision, out of the money owing by the reservationees, for the payment of the value of the improvements on the land surrendered, according to their appraised worth, and also to stipulate for the surveys which will be necessary to ascertain the precise quantities of the small reservations granted or retained, so as to reach the true consideration of the cession under the treaty as modified.

In effecting the purposes the Department has in view - justice to the Indians and to Ogden & Fellows, the adjustment of a much agitated and troublesome question, by an arrangement that shall be satisfactory to all concerned, while it will relieve the Treasury from a pecuniary burthen, I rely with entire confidence on the capacity and integrity that has given you so enviable a reputation among your countrymen.

The Governor of Massachusetts has been apprised of the desire to hold the proposed treaty, and requested to appoint an Agent on behalf of that State, to assist in the negotiation, according to the terms of the convention between New York and Massachusets. As soon as information is received from him of the appointment of an agent, a time for holding the treaty will be named and communicated to you.

To facilitate your labors a copy of the session laws of 1840, containing the treaty of 1838 is herewith forwarded. It is not intended to depart from the provisions of that treaty, except in respect to the Senecas, and in reference to them only in the modification as to quantity of land to be ceded, as herein mentioned, and in the further modification consequent upon the foregoing, of retaining the stipulations in favor of such portions

470

of the Senecas as may choose to emigrate.

Messrs Ogden & Fillmore are to defray all the expenses of holding the treaty, except what may be paid by the U.S. But as no appropriation has been made for the purpose, these expenses must be in the 1st instance paid by Messrs Ogden & Fillmore, and their reimbursement must depend upon the action of Congress. They will doubtless make the amount satisfactory to you. The usual allowance by the Government to its Commissioners is $5 for every twenty miles of travel and $8 per day while otherwise necessarily employed. It is hoped and believed that by proper precautions in excluding interested persons and meddling citizens, from the deliberations of the council, its business may be terminated in a few days; and you are authorized and requested to direct the necessary measures to exclude all except those interested directly in the stipulations of the treaty and their agents, and the Committee of Quakers who attend in behalf of the Senecas and their assistants. The sub-agent, Stephen Osborne Esq. will be instructed to obey your directions in this and other matters connected with the discharge of your official duties.

I. H. C.

478 Lewis Wm B — C. S. A
462 2d Auditor. — 17th February 1842

Sir,

I have the honor to transmit the copy of a letter from the Chairman of the Committee of Indian Affairs of the Ho of Reps, calling for information in reference to expenditures under the Civilization act of 1819, and request that so much of the information sought as can be furnished from your files may be reported to this Office.

I. H. C.

Kennedy, Medwin Hon — C. S. A
H of R. Pa. — 17th February 1842

Sir.

Your letter of the 15th inst to the Secretary of War, has been received and referred to this Office. You desire to know what the hon. steel, tobacco and salt

Ambrose Spencer
17th Feby '42

Record 31.
page 468. [-470]

War Department
Office I. A.
27. February 1842.

Sir,

I have the honor to enclose a letter of appointment, constituting you a Commissioner on the part of the United States, to treat with the Chiefs of Indians residing in the Western part of the State of New York, respectfully submitted and, by direction of the Secretary of War, to accompany it by instructions for executing the trust confided to you.

You are aware that the treaty made with the Chiefs and other tribes of Indians in Western New York, and proclaimed in 1840, has been much objected to and discussed. The object of your appointment is to settle the ~~the~~ litigated points, and to ~~terminate~~ remove the grounds for the complaints that the Indians have not been fairly dealt by. This can only be effected by a strict fulfilment of the treaty of 1838, and by the exercise of a conciliatory spirit on all sides.

The treaty expressly with those persons only entitled by the United States to Indian tribes. The general Government is no further concerned, nor its interests further involved, than as it is important to relieve an already flourishing and thickly advancing portion of the territory of New York from the inconvenience of Indian population, and those Indians themselves from the temptations that surround them where they now are. ~~The real question~~ To effect these objects the United States proposed terms which, though by the treaty to be paid a large sum of money, but the real question is a trust, so far as relates to the ~~[illegible]~~ capital offered for the lands, in the whole the remaining interest in the land, which was deemed for the benefit of

Massachusetts, under the Convention between this State and New York at Hartford, Connecticut in 1786. ~~It remains a portion that is final~~

The basis of the proposed arrangement is one of compromise, by which the Commissioners will relinquish to the Indians a portion of the territory conveyed to them by the in 1838 — and the Indians a proportional part of the consideration that was agreed to be paid for it. There is ~~[illegible]~~ much more that enhances in pecuniary reservations than the Commissioners can see. The Commissioners speak of them as they may be agreed on, and the whole ~~[illegible]~~ by the Commissioners of the others on terms, ~~[illegible]~~ being to be paid by order and delivery, under the to the Indians a just proportion of the money consideration ~~of the land of the State~~ established on the principle of the proportion that the whole land embraced in the Reservations bears to the portion of it that shall be done be conveyed to the Indians by the proposed modification, will effect the adjustment of this vexatious matter.

The reservations around Buffalo, ~~and Boston~~ to be in the which it may be more agreeable to the Company to be held by Indian tenure ~~which will make them farthest from the whites, and will~~ by and thus be removed from the vicinity of the whites, and there will be the least interference with the progress in improvement that important matter of the State.

It will be for you to see if the provision for the payment of the value of the improvements will be land summered, according to their apparent worth and also ~~[illegible]~~ stipulated to the money which will be required to be paid quantities of the annual reservations question arises, is as broad the true consideration of the cession under the modified treaty as modified.

In stating the purpose the Department has in view — the justice to the Indians and to Ogden and Fellows — the adjustment of a much agitated and troublesome question, by an arrangement that shall be satisfactory to all concerned, while it tends to relieve from a pressure by the very strong confidence in your ~~[illegible]~~ ~~[illegible]~~ the capacity and integrity that have won you so enviable a reputation among your contemporaries.

Relation existing between the parties to the treaty of 1838, and the present.

The Governor of Massachusetts has been apprised of the desire to have the proposed treaty, and requested to appoint an agent on behalf of that State, ~~according to the stipulations of the negotiation~~ a agent in the negotiation, according to the terms of the Convention between New-York & Massachusetts. As soon as information is received from him of the appointment of an agent, a time for hearing the treaty will be named and communicated to you.

To facilitate your labors a copy of the Seneca Laws of 1840 concerning the treaty of 1838 is herewith forwarded. It is not intended to depart from the provisions of that treaty, except in output to the Senecas, and in reference to them only in the modification as to quantity of land to be ceded, as herein mentioned, and in the further modification consequent

To Hon. Ambrose Spencer
Albany
New York

upon the footing, of retaining the best stipulations in favor of such portion of the Indians as may choose to emigrate.

Under Expenses & Losses are a class we the expense of holding the treaty, an item which may be defrayed by this Co. S. But as no appropriation has been made for this purpose, these expenses must be in the first instance paid by under expenses & losses, and their reimbursement must depend on the action of Congress. They will doubtless make the amount satisfactory to you. The annual allowance by the grant to the Commissioners of $8 per day ~~and their expenses~~ for any twenty miles of travel — and the Steamer keep only supplied. It is hoped and believed that by proper precautions in calculating interests, fortune and meddling citizens, from the deliberations of the Council, its business may be terminated in a few days. And you are authorized and requested to direct the necessary measures to exclude all who ~~are not~~ are not interested directly in the stipulations of the treaty and their agents, and the commissioners of Indians who attend in behalf of the Indians and their officers. The Civil agent Stephen Osborn Esq. will be instructed to obey your directions in this and other subsidiary matters connected with the discharge of your official duties.

[Checked with L.B. 31, 468-470]

Q. & New York
S. 250 V. 13158

W. D. 28 May 1842

Indian Bureau

Dd.
Lyons 23rd May 1842.

H. Spencer —

Includes treaty made with the Seneca Indians, Western New York — also an Indenture between J. L. Ogden and Ralph Fellows (affd by him) and Baird Smith — Explains the three amendments introduced by him — Refers to the number who signed, giving explanations &c — Mentions the names of several members of the Society of Friends to whom he attributes the good results of the Treaty &c &c &c

Recd 28 May 1842

See Letter to the Secy of War June 7th 1842.

Lyons, May 23d, 1842.

The Hon. John C. Spencer
Secretary of War.

Sir

I have the honor of enclosing to you herewith, a treaty made & concluded between the United States & the Seneca nation of Indians residing in the western part of the State of New York, and also an Indenture executed between Thomas Ludlow Ogden, & Joseph Fellows of the one part, & the said Seneca nation of Indians of the other part, approved by me & the Superintendent on the part of the Speckators. Both of these documents were executed on the 20th day of the instant.

I have so far departed from the draft of a treaty sent me from your department, as to make three amendments. The one merely verbal & in my judgment immaterial, but rendering the provision more explicit. This amendment occurs in the fourth article & consists in the insertion of the words "as to quantity" in the last line but one. Another amendment occurs in the eighth article of the treaty & consists in giving to the Indians remaining in the State of New York, the right of alienating the two reservations ceded to them by Ogden & Fellows the Cataraugus & the Allegany reservations, so that the emigrating Indians shall not have the power to force the Indians who choose to remain on these reservations

to leave them without their consent; ~~so that the emigrating Indians~~ The other amendment as you will perceive pro:vides that such Indians residing on the Cataraugus & Alle:gany reservations, as own improvements thereon, & are disposed to emigrate, shall have a just & proportionate com:pensation for their improvements, which enure to the benefit of the nation.

I was induced to accede to these amend:ments, because I thought them just; because without such an alteration, it was very doubtful whether a treaty could have been effected; because Mess.rs Ogden & Fellows concurred in these views; because the steadfast friends of the Indians, the Quakers representing the Yearly meetings advised & assented thereto; & because it in no way affected the interests of the United States. The re:sult shows the wisdom & policy of these amendments.

The negotiation with the Indians com:menced on the 16th of this month & was terminated by the treaty on the 20th. You will perceive that it was signed & sealed by Fifty five Chiefs & Headmen. The treaty was fully explained & interpreted to them, & was debated & con:sidered by them in their own council, when I was not present for nearly three days. On a vote taken in my presence & in open council, Fifty five chiefs voted in favor of the present treaty & sixteen against it. Full notice had been given to the whole nation to be present; indeed they had at a council held in April last, appointed the 16th day of May as the day for holding the council. Two Chiefs presented themselves as ready to sign the treaty, but the regularity of their elections was objected to, & I declined

receiving their signatures. All the signatures were given in open council, & there was at no time, the least appearance, that any Chief or Indian present was intoxicated, & it is believed there was not a drop of ardent liquor in or about the council. As far as I could learn, the whole number of Chiefs & Head-men of the nation is about eighty one.

I can say that according to my conceptions, there never was a treaty executed with any Indian nation, more fairly, freely & understandingly done, & I can not but believe this, to be the unanimous opinion of those best qualified to judge.

The Hon. Samuel Hoar, the Superintendent on the part of Massachusetts, several times addressed the Indians, appealing to them of their rights & insisting on the freedom of their will in assenting to, or dissenting from the proposed treaty; & I presume the same course. It gives me pleasure to state, that his conduct throughout was highly judicious and honorable. The Quakers were allowed to address the Indians & explain their agency in bringing about the modified treaty; and the Indians publickly testified their firm conviction, that they had been true, their ardent & unalterable friends; & I take great satisfaction in saying that to Mr. Thomas of Baltimore, Mr. Harris of Wilmington, Mr. Cooper of Wayne County New York, & to Mr. Shepard of Philadelphia, the consummation of the treaty, is greatly to be attributed.

Affectionately &c.

A Sparrow

Treaty
with the Seneca Indians
May 20. 1842.

JOHN TYLER,

PRESIDENT OF THE UNITED STATES OF AMERICA,

TO ALL AND SINGULAR TO WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS, a treaty was made and concluded at Buffalo Creek, in the State of New York, on the twentieth day of May, in the year one thousand eight hundred and forty-two, between the United States of America, acting herein by Ambrose Spencer their Commissioner, thereto duly authorized, on the one part, and the chiefs, headmen, and warriors of the Seneca nation of Indians, duly assembled in council, on the other part; which treaty is word for word as follows, to wit:

ARTICLES OF A TREATY *made and concluded at Buffalo Creek, in the State of New York, on the twentieth day of May in the year one thousand eight hundred and forty-two, between the United States of America, acting herein by Ambrose Spencer their Commissioner, thereto duly authorized, on the one part and the chiefs, headmen; and warriors of the Seneca nation of Indians, duly assembled in council, on the other part.*

Whereas a treaty was heretofore concluded, and made between the said United States, and the chiefs, headmen, and warriors of the several tribes of New York Indians, dated the fifteenth day of January in the year one thousand eight hundred and thirty-eight, which treaty having been afterwards amended, was proclaimed by the President of the United States, on the fourth of April one thousand eight hundred and forty, to have been duly ratified.

And whereas on the day of making this treaty, and bearing even date herewith, a certain indenture was made executed and concluded by and between the said Seneca nation of Indians and Thomas L. Ogden, and Joseph Fellows, assignees under the State of Massachusetts, in the presence, and with the approbation of a Commissioner appointed by the United States, and in the presence and with the approbation of Samuel Hoare, a superintendent on the part of the commonwealth of Massachusetts, which indenture is in the words and figures following to wit:

"THIS INDENTURE made and concluded between Thomas Ludlow Ogden of the city " of New York, and Joseph Fellows of Geneva, in the county of Ontario of the one part, " and the chiefs and headmen of the Seneca nation of Indians, on the other part at a coun- " cil duly assembled and held at Buffalo Creek in the State of New York on the twentieth " day of May in the year one thousand eight hundred and forty-two in the presence of " Samuel Hoare, the superintendent thereto authorized and appointed by and on the part " of the commonwealth of Massachusetts, and of Ambrose Spencer a Commissioner thereto " duly appointed and authorized on the part of the United States.

" Whereas at a council held at Buffalo Creek, on the fifteenth day of January in the " year one thousand eight hundred and thirty-eight, an indenture of that date was made and " executed by and between the parties to this agreement, whereby the chiefs and headmen " of the Seneca nation of Indians for the consideration of two hundred and two thousand " dollars did grant, bargain, release and confirm unto the said Thomas Ludlow Ogden and " Joseph Fellows, all those four several tracts of land, situate within the State of New " York, then and yet occupied by the said nation, or the people thereof, severally described " in the said indenture, as the Buffalo Creek Reservation containing by estimation forty-nine " thousand nine hundred and twenty acres of land, the Cattaraugus Reservation containing " by estimation twenty-one thousand six hundred and eighty acres of land, the Allegany

" Reservation, containing by estimation thirty thousand four hundred and sixty nine acres " of land, and the Tonnewanda Reservation containing by estimation twelve thousand eight " hundred acres of land; a duplicate of which indenture was annexed to a treaty of the " same date made between the United States of America and the chiefs, headmen, and " warriors of the several tribes of New York Indians assembled in council; which treaty was " amended and proclaimed by the President of the United States on the fourth of April " one thousand eight hundred and forty, as having been duly ratified, as by the said inden- " ture, treaty and proclamation more fully appear.

" And whereas divers questions and differences having arisen between the chiefs and " headmen of the Seneca nation of Indians or some of them, and the said Thomas Ludlow " Ogden and Joseph Fellows in relation to the said indenture, and the rights of the parties " thereto, and the provisions contained in the said indenture being still unexecuted, the said " parties have mutually agreed to settle, compromise and finally terminate all such questions " and differences on the terms and conditions hereinafter specified.

" Now therefore it is hereby mutually declared, and agreed, by and between the said " parties as follows:

" Article First. The said Thomas Ludlow Ogden and Joseph Fellows in consideration " of the release and agreements hereinafter contained, on the part of the said Seneca; nation " do on their part consent, covenant and agree that they the said nation (the said indenture " notwithstanding) shall and may continue in the occupation and enjoyment of the whole of the " said two several tracts of land, called the Cattaraugus Reservation, and the Allegany Reser- " vation with the same right and title in all things, as they had and possessed therein imme- " diately before the date of the said indenture, saving and reserving to the said Thomas Lud- " low Ogden and Joseph Fellows the right of pre-emption, and all other the right and title " which they then had or held in or to the said tracts of land.

" Article Second. The chiefs and headmen of the Seneca nation of Indians in conside- " ration of the foregoing, and of the agreement next hereinafter contained, do on their part, " grant, release and confirm unto the said Thomas Ludlow Ogden, and Joseph Fellows, and to " their heirs and assigns, in joint tenancy, the whole of the said two tracts of land severally " called the Buffalo Creek Reservation, and the Tonnewanda Reservation, and all the right " and interest therein of the said nation.

" Article Third. It is mutually agreed, between the parties hereto that in lieu of the sum " expressed in the said indenture, as the consideration of the sale, and release of the said " four tracts of land, there shall be paid to the said nation a just consideration sum, for the " release of the two tracts, hereby confirmed to the said Ogden and Fellows, to be estima- " ted and ascertained as follows:

" The present value of the Indian title to the whole of the said four tracts of land, inclu- " ding the improvements thereon, shall for all the purposes of this present compact, be " deemed and taken to be two hundred and two thousand dollars, of which sum one hundred " thousand dollars shall be deemed to be the value of such title in and to all the lands within " the said four tracts exclusive of the improvements thereon, and one hundred and two " thousand dollars to be the value of all the improvements within the said four tracts, and of " the said sum of one hundred thousand dollars the said Ogden and Fellows shall pay to the " Seneca nation such proportion as the value of all the lands within the said two tracts called " the Buffalo Creek, and Tonnewanda Reservations shall bear to the value of all the lands " within all the said four tracts—and of the said sum of one hundred and two thousand dollars, " the said Ogden and Fellows shall pay such proportion as the value of the improvements on " the same two tracts, shall bear to the value of the improvements on all the said four tracts.

" Article Fourth. The amount of the consideration moneys to be paid in pursuance of " the last preceding article, shall be determined by the judgment and award of arbitrators, one " of whom shall be named by the Secretary of the War Department of the United States, and " one by the said Ogden and Fellows, which arbitrators in order to such judgment and award, " and to the performance of the other duties hereby imposed on them, may employ suitable " surveyors to explore examine and report on the value of the said lands and improve- " ments, and also to ascertain the contents of each of the said four tracts, which contents " shall govern the arbitrators as to quantity in determining the amount of the said considera- " tion money.

" The same arbitrators shall also award and determine the amount to be paid to each in- " dividual Indian out of the sum which on the principles above stated, they shall ascertain " and award to be the proportionate value of the improvements on the said two tracts called " the Buffalo Creek Reservation and the Tonnewanda Reservation, and in case the said arbi-

" trators shall disagree as to any of the matters hereby submitted to them, they may choose " an umpire whose decision thereon shall be final and conclusive, and the said arbitrators " shall make a report in writing of their proceedings in duplicate, such reports to be acknow- " ledged or proved according to the laws of the State of New York, in order to their being " recorded, one of such reports to be filed in the office of the Secretary of the Department " of War, and the other thereof to be delivered to the said Thomas L. Ogden and Joseph " Fellows.

" Article Fifth. It is agreed, that the possession of the two parts hereby confirmed, to " the said Ogden and Fellows, shall be surrendered and delivered up to them, as follows, viz: " The forest or unimproved lands on the said tracts, within one month after the report of " the said arbitrators, shall be filed, in the office of the Department of War, and the improved " lands within two years after the said report shall have been so filed; Provided always " that the amount to be so ascertained and awarded, as the proportionate value of the said " improvements, shall on the surrender thereof be paid to the President of the United States, " to be distributed among the owners of the said improvements, according to the determi- " nation and award of the said arbitrators, in this behalf, and provided further that the conside- " ration for the release and conveyance, of the said lands shall at the time of the surrender " thereof, be paid or secured to the satisfaction of the said Secretary of the War Department, " the income of which is to be paid to the said Seneca Indians annually.

" But any Indian having improvements may surrender the same, and the land occupied " by him, and his family at any time prior to the expiration of the said two years, upon the " amount awarded to him for such improvements, being paid to the President of the United " States, or any agent designated by him for that purpose by the said Ogden and Fellows, " which amount shall be paid over to the Indian entitled to the same, under the directions " of the War Department.

" Article Sixth. It is hereby agreed and declared, to be the understanding and intent of " the parties hereto, that such of the said Seneca nation, as shall remove from the State of New " York, under the provisions of any treaty, made or to be made, between the United States " and the said Indians, shall be entitled in proportion to their relative numbers to the funds " of the Seneca nation, and that the interest and income of such their share and proportion " of the said funds, including the consideration money to be paid to the said nation in pur- " suance of this Indenture, and of all annuities belonging to the said Nation shall be paid to " the said Indians so removing at their new homes, and whenever the said tracts called the " Allegany and the Cattaraugus Reservations, or any part thereof, shall be sold and conveyed " by the Indians remaining in the State of New York, the Indians so removing shall be " entitled to share in the proceeds of said sales in the like proportion. And it is further " agreed and declared, that such Indians owning improvements in the Cattaraugus and Al- " legany tracts as may so remove from the State of New York, shall be entitled on such " removal, and on surrendering their improvements to the Seneca nation, for the benefit of " the nation to receive the like compensations for the same, according to their relative values, " as in the third and fourth articles of this treaty are stipulated to be paid, to the owners " of improvements in the Buffalo Creek and Tonnewanda Tracts, on surrendering their " improvements; which compensations, may be advanced by the President of the United " States, out of any funds, in the hands of the Government of the United States, belonging " to the Seneca nation, and the value of these improvements shall be ascertained and re- " ported by the Arbitrators, to be appointed in pursuance of the fourth article.

" Article Seventh. This Indenture is to be deemed to be in lieu of, and as a substitute " for the above recited Indenture made and dated the fifteenth day of January, one thousand " eight hundred and thirty-eight, so far as the provisions of the two instruments may be incon- " sistent, or contradictory, and the said Indenture so far as the same may be inconsistent with " the provisions of this compact, is to be regarded, and is hereby declared to be rescinded " and released.

" Article Eighth. All the expenses attending the execution of this Indenture and com- " pact including those of the arbitration and surveys hereinbefore referred to, and also those of " holding the treaty now in negotiation between the United States and the said Seneca Nation, " except so far as may be provided for by the United States, shall be advanced and paid by " the said Ogden and Fellows.

" Article Ninth. The parties to this compact mutually agree to solicit the influence of " the Government of the United States to protect such of the lands of the Seneca Indians, " within the State of New York, as may from time to time remain in their possession from " all taxes, and assessments for roads, highways, or any other purpose until such lands shall

" be sold and conveyed by the said Indians, and the possession thereof shall have been " relinquished by them.

" In witness whereof, the parties to these presents have hereunto, and to three other " instruments of the same tenor and date, one to remain with the United States, one to " remain with the State of Massachusetts, one to remain with the Seneca Nation of Indians, " and one to remain with the said Thomas Ludlow Ogden and Joseph Fellows, interchange- " ably set their hands and seals the day and year first above written."

THEREFORE taking into consideration the premises it is agreed and stipulated by and between the United States of America and the Seneca nation of Indians, as follows, to wit:

First, The United States of America consent to the several articles and stipulations contained in the last recited Indenture between the said nation, and the said Thomas Ludlow Ogden and Joseph Fellows, above set forth.

Second, The United States further consent and agree that any number of the said nation, who shall remove from the State of New York, under the provisions of the above mentioned Treaty proclaimed as aforesaid, on the fourth day of April one thousand eight hundred and forty, shall be entitled in proportion to their relative numbers to all the benefits of the said Treaty.

Third, The United States of America further consent and agree, that the tenth article of said Treaty proclaimed as aforesaid on the fourth day of April one thousand eight hundred and forty, be deemed, and considered as modified, in conformity with the provisions of the Indenture hereinabove set forth, so far as that the United States will receive and pay the sum stipulated to be paid as the consideration money of the improvements therein specified, and will receive hold and apply the sum to be paid, or the securities to be given for the lands therein mentioned, as provided for in such Indenture.

In testimony whereof the undersigned Ambrose Spencer Commissioner on the part of the United States of America, and the undersigned chiefs and headmen of the Seneca nation of Indians, have to two parts of this treaty, one thereof to remain with the United States, and the other thereof with the Seneca nation of Indians set their hands and affixed their seals the day and year first above mentioned.

AMBROSE SPENCER, [L. S.]

Tit-ho-yah or
William Jones, his x mark [L. S.]
Saul Lagure, [L. S.]
Gau-geh-gruh-doh or
George Jamison, his x mark [L. S.]
N. T. Strong, [L. S.]
Hau-neh-hoys-soh
or Blue Eyes, his x mark [L. S.]
Jabez Stevenson, [L. S.]
William Krouse,
Samuel Wilson, his x mark [L. S.]
or Ni-ge-jos-a,
William Krouse, [L. S.]
John Seneca,
or Jo-on-da-goh, his x mark [L. S.]
Ho-no-yea-os
or Jacob Bennett, his x mark [L. S.]
George Turkey, [L. S.]
Daniel Fau Guns, [L. S.]
Goat-hau-oh or
Billy Shanks, his x mark [L. S.]
Daniel Fau Guns, [L. S.]
Goat-hau-oh or
Billy Shanks, his x mark [L. S.]
James Pierce, his x mark [L. S.]
Gi-eut-twa-geh or
Robert Watt, his x mark [L. S.]
Thompson S. Harris, [L. S.]
Sah-go-en-toh or
Morris Halftown, his x mark [L. S.]

Ten-wan-ne-us or
Governor Black Snake, x mark [L. S.]
Doa-ne-pho-gah or
Little Johnson, his x mark [L. S.]
Joh-nesh-ha-dih or
James Stevenson, his x mark [L. S.]
Ho-wah-tan-eh-goh
or John Pierce, his x mark [L. S.]
Da-gon-on-de or
William Patterson, his x mark [L. S.]
Samuel Goudon, [L. S.]
Tunis Halftown, [L. S.]
Hau-sa-nea-nes or
White Seneca, his x mark [L. S.]
Gah-nang-ga-eot or
Young Chief, his x mark [L. S.]
Thomas Jimeson, [L. S.]
Moses Stevenson, [L. S.]
Jonah Armstrong, his x mark [L. S.]
Joseph Silverheels [L. S.]
Da-o-as-sah-au or
Jo. Hunlock, [L. S.]
George Fox [L. S.]
Yaw-sau-ge or
Peter Johnson his x mark [L. S.]
Nob-sok-dah or
Jim Jonas, his x mark [L. S.]
Dih-no-se-du or
Jacob Shongo, his x mark [L. S.]

Seneca White,		[L. S.]	John Kennedy, Sen.,	his x mark	[L. S.]
Gosh-u-aw or			Abram John,	his x mark	[L. S.]
James Shongo,	his x mark	[L. S.]	Job Pierce,	his x mark	[L. S.]
Jarvis Spraing,		[L. S.]	Saw-da-ne or		
Ti-at-tah-co or			George Deer,	his x mark	[L. S.]
Adam Doxtader,	his x mark	[L. S.]	Ga-na-waw or		
Moris B. Pierce,		[L. S.]	John Cook,	his x mark	[L. S.]
So-goob-quas or			Jaw-ne-es or		
John Tallchief	his x mark	[L. S.]	John Dickey,	his x mark	[L. S.]
Isaac Halftown,	his x mark	[L. S.]	George Big Deer,	his x mark	[L. S.]
David Snow,	his x mark	[L. S.]	Nab-job-gau-eh		
John Bark,	his x mark	[L. S.]	or Tall Peter,	his x mark	[L. S.]
George Killbuck,	his x mark	[L. S.]	John Kennedy, Jr.,		[L. S.]
George Dennis,	his x mark	[L. S.]			

Signed sealed and delivered in the presence of — The words "and Allegany" in the sixth page being interlined.

A. Dixon *Com'r. on the part of New York.*
Benj. Ferris,
Orlando Allen,
Asher Wright,
O. H. Marshall,
Elam R. Jewett,
Cortland B. Stebbins,
Joseph S. Wasson.

Approv'd Aug. 25, 1842.

JOHN TYLER.

Now, therefore, be it known, that I, JOHN TYLER, President of the United States of America, having seen and considered said treaty, do, in pursuance of the advice and consent of the Senate, as expressed in their resolution of the twenty-fourth of August, one thousand eight hundred and forty-two, accept, ratify, and confirm the same, and every article and clause thereof.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, having signed the same with my hand.

Done at the City of Washington, the twenty-sixth day of August, [L. S.] in the year of our Lord one thousand eight hundred and forty-two, and of the Independence of the United States the sixty-seventh.

JOHN TYLER.

By the President:

Daniel Webster, *Secretary of State.*

S3158

Recorded in the
Miscellaneous Book
No. 5. page 15

This Indenture made and concluded between Thomas Ludlow Ogden of the City of New York, and Joseph Fellows of Geneva in the County of Ontario of the one part and the Chiefs and headmen of the Seneca Nation of Indians on the other part at a Council duly assembled and held at Buffalo Creek in the State of New York on the twenty-seventh day of May, in the year one thousand eight hundred and forty two in the presence of Samuel Moore the superintendent thereto authorized & appointed by and on the part of the Commonwealth of Massachusetts, and of Ambrose Spencer a Commissioner thereto duly appointed and authorized on the part of the United States.

Witnesseth at a Council held at Buffalo Creek on the fifteenth day of January in the year One thousand eight hundred and thirty eight, an Indenture of that date, was made and executed by and between the Parties to this Agreement, whereby the Chiefs and headmen of the Seneca Nation of Indians for the consideration of two hundred and two thousand dollars, did grant, bargain & release and confirm unto the said Thomas Ludlow Ogden and Joseph Fellows, all those four several tracts of land situate within the State of New York, then and yet occupied by the said Nation or the people thereof, severally described in the said Indenture as the Buffalo Creek Reservation containing by estimation forty nine thousand nine hundred and twenty acres of land, the Cattaraugus Reservation, containing by estimation twenty one thousand six hundred and eighty acres of land, the Allegany Reservation containing by estimation thirty thousand four hundred and sixty nine acres of land, and the Tonawanda Reservation containing by estimation twelve thousand eight hundred acres of land, a duplicate of which Indenture was annexed to a treaty of the same date, made between the United States of America, and the Chiefs headmen and Warriors of the several tribes of New York Indians assembled in Council, which treaty was amended and proclaimed by the President of the United States on the fourth day of

thousand eight hundred and forty as having
atisfied, as by the said Indenture, Treaty and
i more fully appear.
Whereas diverse questions and differences having ari
the Chiefs and headmen of the Seneca Nation of
some of them, and the said Thomas Ludlow Ogden
Fellows in relation to the said Indenture, and
of the parties thereto and the provisions contained
Indenture being still unexecuted, the said par
mutually agreed to settle, compromise and finally
all such questions and differences on the terms
tions hereinafter specified.
Therefore it is hereby mutually declared and
and between the said parties as follows.
id Thomas Ludlow Ogden and Joseph Fellows in
i of the release and agreement hereinafter con
the part of the said Seneca Nation do on their
tai, covenant and agree that they the said
said Indenture notwithstanding) shall and
ine in the occupation and enjoyment of the
e said two several tracts of land called the
s Reservation and the Allegany Reservation
same right and title in all things, as they had
sed therein immediately before the date of the
ture, saving and reserving to the said Thomas
den and Joseph Fellows the right of preemption
hen the right and title which they then had
i or to the said tracts of land.
Chiefs and headmen of the Seneca Nation of
consideration of the foregoing, and of the agree
hereinafter contained, do on their part, grant
confirm unto the said Thomas Ludlow Ogden
Fellows, and to their heirs and assigns in joint
e whole of the said two tracts of land severally
Buffalo Creek Reservation and the Tonnawanda

Reservation, and all the right and interest the
Nation

Article Third It is mutually agreed between the
that in lieu of the sum expressed in the said
the consideration of the sale and release of the said f
there shall be paid to the said Nation a just consi
for the release of the two tracts hereby confirmed to th
and Fellows to be estimated and ascertained as follows. The
the Indian ~~[illegible]~~ title to the whole of the said four t
cluding the improvements thereon shall for all the p
present Compact be deemed and taken to be two hundred an
dollars, of which sum one hundred thousand dollars shal
be the value of such title in and to all the lands wi
four tracts, exclusive of the Improvements thereon, an
and two thousand dollars to be the value of all the
within the said four tracts, and of the said sum
thousand dollars the said Ogden and Fellows sha
Seneca Nation such proportion as the value of all th
the said two tracts called the Buffalo Creek and Tona
-tions, shall bear to the value of all the lands wit
said four tracts, and of the said sum of one hun
thousand dollars, the said Ogden and Fellows, shal
proportion as the value of the Improvements on the
shall bear to the value of the Improvements on all the
Article Fourth. The amount of the consideration money
pursuance of the last preceding Article, shall be determ
judgment and award of Arbitrators, one of whom shall
the Secretary of the Treasury Department of the United States,
said Ogden and Fellows, which arbitrators in order to such
and award, and to the performance of the other duties
on them, may employ suitable Surveyors to explore, e
report on the value of the said lands and Improvem
to ascertain the contents of each of the said four tract
tents shall govern the Arbitrators in determining the
the said consideration money.

The same Arbitrators shall also award and determine the amount to be paid to each individual Indian out of the sum which, on the principles above stated, they shall ascertain and award to be the proportionate value of the Improvements on the said two tracts called the Buffalo Creek Reservation and the Tonawanda Reservation, and in case the said Arbitrators shall disagree as to any of the matters hereby submitted to them, they may choose an Umpire whose decision thereon shall be final and conclusive; and the said Arbitrators shall make a report in writing of their proceedings in duplicate, such reports to be acknowledged or proved according to the laws of the State of New York in order to their being recorded; one of such reports to be filed in the Office of the Secretary of the Department of War, and the other thereof to be delivered to the said Thomas L. Ogden and Joseph Fellows.

Article Fifth. It is agreed that the possession of the two Tracts hereby confirmed to the said Ogden and Fellows, shall be surrendered and delivered up to them as follows, viz: The forest or unimproved lands on the said tracts within one Month after the report of the said Arbitrators shall be filed in the Office of the Department of War, and the improved lands within two years after the said report shall have been so filed; provided always that the amount to be so ascertained and awarded as the proportionate value of the said Improvements, shall on the surrender thereof, be paid to the President of the United States to be distributed among the owners of the said Improvements according to the determination and award of the said Arbitrators in this behalf; and provided further that the consideration for the release and conveyance of the said lands, shall at the time of the surrender thereof be paid or secured to the satisfaction of the said Secretary of the War Department, the income of which is to be paid to the said Seneca Indians annually. But any Indian having improvements may surrender the same and the land occupied by him and his family, at any time prior to the expiration of the said two years upon the amount awarded to him for such improvements being paid to the President of the United States; or any Agent

designated by him for that purpose, by the said Ogden & Fellows, which amount shall be paid over to the Indian entitled to the same under the directions of the War department

Article sixth. It is hereby agreed and declared to be the understanding and intent of the parties hereto that such of the said Seneca Nation as shall remove from the State of New York under the provisions of any treaty made or to be made between the United States and the said Indians, shall be entitled in proportion to their relative numbers, to the funds of the Seneca Nation, and that the interest and income of such their share or proportion of the said funds, including the Consideration Money to be paid to the said Nation in pursuance of this Indenture, and of all annuities belonging to the said Nation, shall be paid to the said Indians so removing at their new homes. & whenever the said tracts called the Alleganey and the Callaraugus reservations, or any part thereof shall be sold and conveyed by the Indians remaining in the State of New York, the Indians so removing shall be entitled to share in the proceeds of such sales in the like proportion. And it is further agreed and declared that such Indians owning Improvements in the Callaraugus and Alleganey tracts as may so remove from the State of New York, shall be entitled on such removal and on surrendering their Improvements to the Seneca Nation for the benefit of the Nation, to receive the like Compensation for the same according to their relative Values as in the third and fourth articles of this treaty are stipulated to be paid to the Owners of Improvements in the Buffalo Creek and Tonnewanta tracts on surrendering their Improvements, which Compensations may be advanced by the President of the United States out of any funds in the hands of the Government of the United States, belonging to the Seneca Nation. And the value of these Improvements shall be ascertained and reported by the arbitrators to be appointed in pursuance of the fourth article

Article seventh. This Indenture is to be deemed to be in

lieu of, and as a Substitute for the above recited Indenture made and dated the fifteenth day of January one thousand Eight hundred and thirty eight, so far as the provisions of the two Instruments may be inconsistent or Contradictory And the said Indenture so far as the same may be inconsistent with the provisions of this Compact is to be regarded and is hereby declared to be rescinded and released

Article Eighth. All the Expences attending the Execution of this Indenture and Compact including those of the arbitration and surveys herein before referred to, and also those of holding the treaty now in negotiation between the United States and the said Seneca Nation except so far as may be provided for by the United States, shall be advanced and paid by the said Ogden and Fellows.

Article Ninth. The parties to this Compact mutually agree to solicit the Influence of the Government of the United States to protect such of the lands of the Seneca Indians within the State of New-York as may from time to time remain in their possession from all taxes and assessments, for roads, high ways or any other purpose, until such lands shall be sold and conveyed by the said Indians, and the possession thereof shall have been relinquished by them

In Witness whereof the parties to these presents, have hereunto, and to three other Instruments of the same tenor and date, one to remain with the United States, one to remain with the State of Massachusetts, one to remain with the Seneca Nation of Indians, and one to remain with the said Thomas Sandford Ogden, and

Joseph Fellows, interchangeably set their hands and seals the day and year first above written.

T. L. Ogden
Jenwanoe as or X
Governor Black Snake

Dao ne pko gah or
Little Johnson X
Joh neh ha dih or
James Stevenson X
Ho wah tan oh goh or
John Pierce X
La gon on de or
William Pattison X

Saml. Gordon

Jonis Hultstown
Hau su nea nes
or While Seneca X

Gah nang ga e ot
or Young Chief X

Thomas Jimison
Nah joh gau ch
or Tall Peter X

John Kennedy
Tit ho yuh or
William Jones X

Saul Logan
Gah geh guh do
or George Jimison X

Joseph Fellows

N. F. Strong

Jabez Stevenson
Hau neh hoyo soh
or Blue Eyes X

William Crouse
Samuel Wilson X
or Ni ge jos a

William Crouse
John Seneca X
or Jo on da goh

Jacob Bennett X
or He no yen os

George Turkey

Daniel Crow Gun
Gout hoe oh
or Billy Shanks X

James Pum
hi ent twah geh
or Robert Watt X

Thompson S. Harris

Sah go au toh
or Morris Hultstown X

Seneca White
Gosh u ano
or James Shongo X

James Spring

Ti ah tah co
or Adam Dexstuder X

Thazis B. Pierce
So gook quas
or John Tall Chief X

Moses Stevenson
Sinah Armstrong X

Joseph Silverheels
Da o as Sa ha
or Jo Hemlock X

George Foy
Peter Johnson X
or Gau Sau ge

Soh Sok dah
or Jim Jones X
Jacob Shongo X
or Deh no se da

John Kennedy X
Abram John X

Job Pierce X

Saw da ne
or George Deer X

Ga sa u ne
or John Cook X
Isaac Halftown X

David Snow X

John Bark X

George Killbuck X

George Dennis X
John Dickey X
or Gau ne es
George Big deer X

sealed and delivered the words - present in the third Article - words Allegany in the sixth Article - Creek in the third Article - being interlined - in the presence of

A. Dickson commissioner on the part of the State of New York

Benj. Ferris

Orlando Allen

[illegible]

Elisha C. Smith

Cortlandt B. Stebbins

C. H. Marshall

Elisha C. Smith

Joseph S. Walton

Having as Superintendent on the part of the Commonwealth of Massachusetts, attended the negotiation of a treaty, or contract between Thomas L. Ogden and Joseph Allen, of the one part, and the Chiefs and headmen, of the Seneca nation of Indians, of the other part, held at Buffalo Creek, in the State of New York, and concluded this twentieth day of May, in the year 1842, I do hereby certify, that the foregoing instrument of writing, after being fully explained, to the said Chiefs and headmen, convened in Council, was voluntarily agreed to, and signed and executed by them in my presence; and I hereby approve the said instrument and all the matters therein contained. -

Samuel Hoar.

I have this day attended a treaty with the Seneca nation of Indians, held at Buffalo Creek, in the State of New York, on the twentieth day of May, in the year of our Lord One thousand Eight hundred and forty two, upon the within and preceding instrument was duly executed, in my presence, between Thomas Ludlow Ogden, and Joseph Allen of the one part, and the Chiefs and headmen of the said Nation of the other part,

the same having been fully understood and explained to them. And I do hereby certify and declare my full approbation thereof.

Ambrose Spencer a Commr.
on the part of the United States.

1842.

Treaty with the

SENECA ~~Indians~~ Nation

Treaty concluded 20th May 1842.

Ratified, &c. 26th Augt. 1842.

John Tyler,

President of the United States of America,

To all and singular to whom these presents shall come, Greeting:

Whereas, a treaty was made and concluded at Buffalo Creek, in the State of New York, on the twentieth day of May, in the year one thousand eight hundred and forty-two, between the United States of America, acting herein by Ambrose Spencer their Commissioner, thereto duly authorized, on the one part, and the chiefs, headmen and warriors of the Seneca Nation of Indians, duly assembled in council, on the other part; which treaty is word for word as follows, to wit:

#241

Recorded in the
Miscellaneous Book
No. 5. page 9

Articles of a Treaty made and concluded at Buffalo Creek, in the State of New York, on the twentieth day of May in the year one thousand eight hundred and forty five, Between the United States of America, acting herein by Ambrose Spencer their Commissioner, thereto duly authorized, on the one part, and the Chiefs, headmen and Warriors of the Seneca Nation of Indians, duly assembled in Council, on the other part.

Whereas a treaty was heretofore concluded, and made between the said United States, and the Chiefs, headmen, and Warriors of the several tribes of New York Indians, dated the fifteenth day of January in the year one thousand eight hundred and thirty eight, which treaty having been afterwards amended, was proclaimed by the President of the United States, on the fourth of April one thousand eight hundred and forty, to have been duly ratified.

And Whereas on the day of making this treaty, and bearing even date herewith, a certain Indenture was made executed and concluded by and between the said Seneca Nation of Indians and Thomas L. Ogden, and Joseph Fellows, assignees under the State of Massachusetts, in the presence, and with the approbation of a Commissioner appointed by the United States, and in the presence and with the approbation of Samuel Hoare, a superintendent on the part of the Commonwealth of Massachusetts, which Indenture is in the words and figures following to wit:

"This Indenture made and concluded between Thomas
" Ludlow Ogden of the City of New York, and Joseph Fellows of
" Geneva, in the County of Ontario of the one part, and the Chiefs and
" headmen of the Seneca Nation of Indians, on the other part at a
" Council duly assembled and held at Buffalo Creek in the State
" of New York on the twentieth day of May in the year one
" thousand eight hundred and forty five in the presence of Samuel
" Hoare, the Superintendent thereto authorized and appointed by and

on the part of the Commonwealth of Massachusetts, and of Ambrose Spencer a Commissioner thereto duly appointed and authorized on the part of the United States.

Whereas at a Council held at Buffalo Creek on the fifteenth day of January in the year one thousand eight hundred and thirty eight, an Indenture of that date was made and executed by and between the Parties to this Agreement, whereby the Chiefs and headmen of the Seneca Nation of Indians for the consideration of two hundred and two thousand dollars did grant, bargain, release and confirm unto the said Thomas Ludlow Ogden and Joseph Fellows, All those four several tracts of land situate within the State of New York then and yet occupied by the said Nation, or the people thereof, severally described in the said Indenture, as the Buffalo Creek Reservation containing by estimation forty nine thousand nine hundred and twenty acres of land, the Cattaraugus Reservation containing by estimation twenty one thousand six hundred and eighty acres of land, the Allegany Reservation, containing by estimation thirty thousand four hundred and sixty nine acres of land, and the Tonawanda Reservation containing by estimation twelve thousand eight hundred acres of land, a duplicate of which Indenture was annexed to a treaty of the same date made between the United States of America and the Chiefs, headmen, and warriors of the Seneca tribes of New York Indians assembled in Council; which treaty was ratified and proclaimed by the President of the United States on the fourth of April one thousand eight hundred and forty, as having been duly satisfied, as by the said Indenture, Treaty and Proclamation more fully appear.

And Whereas divers questions and differences having arisen between the Chiefs and headmen of the Seneca Nation of Indians or some of them, and the said Thomas Ludlow Ogden and Joseph Fellows in relation to the said Indenture, and the rights of the parties thereto, and the provisions contained in the said Indenture being still unreconciled, the said parties have mutually agreed to settle, compromise and finally

"terminate all such questions and differences on the terms and "conditions hereinafter specified.

"Now Therefore it is hereby mutually declared, and agreed, "by and between the said parties as follows.

"Article First. The said Thomas Ludlow Ogden, and Joseph Fellows "in consideration of the release and agreements hereinafter contained, "on the part of the said Seneca Nation, do on their part consent, covenant "and agree that they the said Nation (the said Indenture notwithstanding) "shall and may continue in the occupation and enjoyment of the "whole of the said two several tracts of land, called the Cattaraugus "Reservation, and the Allegany Reservation with the same right and "title in all things, as they had and possessed thereon immediately "before the date of the said Indenture, saving and reserving to the "said Thomas Ludlow Ogden, and Joseph Fellows the right of pre-"emption, and all other the right and title which they then had "or held in or to the said tracts of land

"Article Second. The Chiefs and headmen of the Seneca Nation "of Indians in consideration of the foregoing, and of the agreement next "hereinafter contained, do on their part grant, release and confirm unto "the said Thomas Ludlow Ogden, and Joseph Fellows, and to their "heirs and assigns, in joint tenancy, the whole of the said two "tracts of land severally called the Buffalo Creek Reservation, and the "Tonnewanta Reservation, and all the right and interest thereon of "the said Nation.

"Article Third. It is mutually agreed, between the parties "hereto that in lieu of the sum expressed in the said Indenture, "as the consideration of the sale, and release of the said four tracts "of land, there shall be paid to the said Nation a fair consideration "sum for the release of the two tracts, hereby confirmed to the said "Ogden and Fellows, to be estimated and ascertained as follows.

"The present value of the Indian title to the whole of the said "four tracts of land including the improvements thereon, shall for "all the purposes of this present Compact, be deemed and taken to be "two hundred and two thousand dollars, of which sum one hundred "thousand dollars shall be deemed to be the value of such title in "and to all the lands within the said four tracts exclusive of

the Improvements thereon, and one hundred and five thousand dollars to be the value of all the improvements within the said four tracts, and of the said sum of one hundred thousand dollars the said Ogden and Fellows shall pay to the Seneca Nation such proportion as the value of all the lands within the said two tracts called the Buffalo Creek and Cattaraugus Reservations shall bear to the value of all the lands within all the said four tracts and of the said sum of one hundred and five thousand dollars, the said Ogden and Fellows shall pay such proportion as the value of the Improvements on the same two tracts shall bear to the value of the improvements on all the said four tracts.

Article Fourth: The amount of the consideration money to be paid in pursuance of the last preceding Article shall be determined by the judgment and award of Arbitrators, one of whom shall be named by the Secretary of the War Department of the United States, and one by the said Ogden and Fellows, which Arbitrators in order to such judgment and award, and to the performance of the other duties hereby imposed on them, may employ suitable Surveyors to explore, examine and report on the value of the said lands and improvements, and also to ascertain the contents of each of the said four tracts, which contents shall govern the Arbitrators as to quantity in determining the amount of the said consideration money.

The same Arbitrators shall also award and determine the amount to be paid to each individual Indian out of the sums which on the principles above stated, they shall ascertain and award to be the proportionate value of the Improvements on the said two tracts called the Buffalo Creek Reservation and the Cattaraugus Reservation, and in case the said Arbitrators shall disagree as to any of the matters hereby submitted to them, they may choose an umpire whose decision thereon shall be final and conclusive, and the said Arbitrators shall make a report in writing of their proceedings in duplicate, such reports to be acknowledged or proved according to the laws of the State of New York in order to their being recorded, one of

"such reports to be filed in the Office of the Secretary of the Department of
"War, and the other thereof to be delivered to the said Thomas S. Ogden
"and Joseph Fellows.

"Article Fifth. It is agreed, that the possession of the two parts hereby
"confirmed, to the said Ogden and Fellows, shall be surrendered and
"delivered up to them, as follows, viz: The forest or unimproved lands
"on the said tracts, within one month after the report of the said
"Arbitrators, shall be filed, in the Office of the Department of War,
"and the improved lands within two years after the said report
"shall have been so filed; Provided Always that the amount to
"be so ascertained and awarded as the proportionate value of the said
"improvements, shall on the surrender thereof be paid to the President
"of the United States, to be distributed among the owners of the said
"improvements, according to the determination and award of the
"said Arbitrators, in this behalf, and provided further that the con-
"-sideration for the release and conveyance, of the said lands shall
"at the time of the surrender thereof, be paid or secured to the
"satisfaction of the said Secretary of the War Department, the income
"of which is to be paid to the said Seneca Indians annually.

"But any Indian having Improvements may surrender the
"same and the land occupied by him, and his family at any
"time prior to the expiration of the said two years, upon the amount
"awarded to him for such improvements being paid to the
"President of the United States, or any Agent designated by him for
"that purpose by the said Ogden and Fellows, which amount shall
"be paid over to the Indian entitled to the same under the direc-
"-tions of the War Department.

"Article Sixth. It is hereby agreed and declared, to be the understan-
"-ding and intent of the parties hereto, that such of the said Seneca
"Nation, as shall remove from the State of New York, under the
"provisions of any treaty, made or to be made, between the United
"States and the Senecas, shall be entitled in proportion to their
"relative numbers to the funds of the Seneca Nation, and that the
"interest and income of such their share and proportion of the said
"funds, including the consideration money to be paid to the said Nation

in pursuance of this Indenture, and of all annuities belonging to the said Nation shall be paid to the said Indians so removing at their new homes, and whenever the said tracts called the Allegany and the Cattaraugus Reservations, or any part thereof, shall be sold and conveyed by the Indians residing in the State of New York, the Indians so removing shall be entitled to share in the proceeds of said sales in the like proportion. And it is further agreed and declared, that such Indians owning improvements in the Cattaraugus and Allegany tracts as may so remove from the State of New York, shall be entitled in such removal, and in surrendering their improvements to the Seneca Nation for the benefit of the Nation to receive the like compensations for the same according to their relative values as in the third and fourth Articles of this treaty are stipulated to be paid to the owners of improvements in the Buffalo Creek and Canawaugus Tracts, on surrendering their improvements, which compensations may be advanced by the President of the United States, out of any funds, in the hands of the Government of the United States belonging to the Seneca Nation, and the value of these improvements shall be ascertained and reported by the Arbitrators, to be appointed in pursuance of the fourth Article.

Article Seventh. This Indenture is to be deemed to be in lieu of, and as a substitute for the above recited Indenture made and dated the fifteenth day of January, one thousand eight hundred and thirty eight, so far as the provisions of the two instruments may be inconsistent, or contradictory, and the said Indenture so far as the same may be inconsistent, with the provisions of this Compact is to be regarded, and is hereby declared to be rescinded and released.

Article Eighth. All the expenses attending the execution of this Indenture and a compact including those of the Arbitration and surveys hereinbefore referred to, and also those of holding the treaty now in negotiation between the United States and the said Seneca Nation, except so far as may be provided

"for by the United States, shall be advanced and paid by the
"said Ogden and Fellows.

"Article Ninth. The parties to this compact mutually agree to
"solicit the influence of the Government of the United States to
"protect such of the lands of the Seneca Indians, within the State
"of New York, as may from time to time remain in their possession
"from all taxes and assessments for roads, highways, or any other
"purpose until such lands shall be sold and conveyed by the
"said Indians, and the possession thereof shall have been relin-
"-quished by them.

"In Witness Whereof, the parties to these presents have
"hereunto and to three other instruments of the same tenor and
"date, one to remain with the United States, one to remain
"with the State of Massachusetts, one to remain with the Seneca
"Nation of Indians, and one to remain with the said Thomas
"Ludlow Ogden and Joseph Fellows, interchangeably, set their hands
"and seals the day and year first above written."

Therefore taking into consideration the premises it is agreed and stipulated by and between the United States of America and the Seneca Nation of Indians, as follows, to wit:

First. The United States of America consent to the several Articles and stipulations contained in the last recited Indenture between the said Nation and the said Thomas Ludlow Ogden and Joseph Fellows above set forth.

Second. The United States further consent and agree that any member of the said Nation, who shall remove from the State of New York, under the provisions of the above mentioned treaty proclaimed as aforesaid, on the fourth day of April one thousand eight hundred and forty, shall be entitled in proportion to their relative numbers to all the benefits of the said Treaty.

Third. The United States of America further consent and agree, that the tenth Article of said Treaty proclaimed as aforesaid on the fourth day of April one thousand eight hundred and forty

be deemed and considered as modified, in conformity with the provisions of the Indenture hereinabove set forth, so far as that the United States will receive and pay the same stipulated to be paid as the consideration money of the improvements thereon specified, and will accept, hold and apply the same to be paid, or the securities to be given for the lands thereon mentioned, as provided for in said Indenture.

In Witness Whereof the undersigned Ambrose Spencer Commissioner on the part of the United States of America and the undersigned Chiefs and headmen of the Seneca Nation of Indians have to five parts of this Treaty, one thereof to remain with the United States, and the other thereof with the Seneca Nation of Indians set their hands and affixed their seals the day and year first above mentioned.

Sah gah gau ah.

Sall Pelee X	Ambrose Spencer
John H. [illegible] Jr	Jeu wan ne as or
	Governor Black Snake X
Ti ho yah	Dac ne the gah or
or William Jones X	Little Johnson X
	Ah nah ka dik or
Saul Logan	James Stevenson X
Gau geh gah ah	Wa wah lun ah gah
or	or John Pierce X
George Jemison X	Sa con on de
Sho	or William Patterson X
Hau neh hoy ah	[illegible]
or Blue Eyes X	Dennis Gordon
John S. Stevens	Hau sa na nes
	or Ahah Simon X
William [illegible]	
Samuel Wilson X	Gah nong qu eot
or Sige jo sa	or Young Chief X
William [illegible]	Thomas Simson

John Simon X
Ho on da yoh
Ho no yea os
Jacob Beaulll X

George Jerkey

Daniel Sam Jones
Gat hau oh or
Billy Shanks X

Daniel Sam Jones
Gat hau oh
or Billy Shanks X

James Vieve

Se nul hea geh
or Robert Watt X

Thompson & Harris
Sah go en loh
or Morris Hughtown X

Jemea White
Yoh n ene
or James Shongo X

James Spring
Ti at lah Co
or Adam Doxtader X

Thomas B Pierce

So goh gwan
or John Tallchief X

Moses Silverheels

Jacob Bennett X

Joseph Silverheels
Sa ca ah ah
or Jo Hemlock

Jesse Cory

Jesse Sawyer
or Peter Johnson X

Yoh sah dah
or Jim Jones X

Sah ne se da
or Jacob Shongo X

John Kennedy Jun X

Abram John X

Yah Pierce X

Saw da ne
or George Bear X

Sa na wan
or John Cook X

Isaac Halfhum X

David Snow X

John Buck X

George Killbuck X

George Dennis X

Jno Dickey X

George Big Doe X

Signed sealed and delivered
in the presence of
The words "and Allegany" in the
sixth page being interlined

A. Dixon Comm on
the part of New York

Benj Ferry

Orlando Allen
Asher Wright
A. H. Marshall
Elias R. Lewis
Cornelius B. Stebbins
Joseph S. Walton

52

Approved Aug. 25. 1842

John Tyler

54 cols

Now, therefore, be it known, that I, John Tyler, President of the United States of America, having seen and considered said treaty, do, in pursuance of the advice and consent of the Senate, as expressed in their resolution of the twenty-fourth of August, one thousand eight hundred and forty-two, accept, ratify, and confirm the same, and every article and clause thereof.

In testimony whereof, I have caused the Seal of the United States, to be hereunto affixed, having signed the same with my hands.

DONE at the City of Washington, the twenty-sixth day of August, in the year of our Lord one thousand eight hundred and forty-two, and of the Independence of the United States the sixty-seventh.

John Tyler

By the President.

Daniel Webster Secretary of State.

[illegible]

→ Mr Seibert –

In Senate of the United States,
August 24th 1842.

Resolved, (two thirds of the Senators present concurring) That the Senate advise and consent to the ratification of the Articles of a treaty made and concluded at Buffalo Creek, in the State of New York, on the twentieth day of May, in the year one thousand eight hundred and forty two, between the United States of America, acting herein by Ambrose Spencer their Commissioner, thereto duly authorized, on the one part, and the Chiefs, headmen and warriors of the Seneca Nation of Indians, duly assembled in Council, on the other part. –

Attest, Asbury Dickins.
Secretary. –

#241

JOHN TYLER,

PRESIDENT OF THE UNITED STATES OF AMERICA,

TO ALL AND SINGULAR TO WHOM THESE PRESENTS SHALL COME, GREETING:

WHEREAS, a treaty was made and concluded at Buffalo Creek, in the State of New York, on the twentieth day of May, in the year one thousand eight hundred and forty-two, between the United States of America, acting herein by Ambrose Spencer their Commissioner, thereto duly authorized, on the one part, and the chiefs, headmen, and warriors of the Seneca nation of Indians, duly assembled in council, on the other part; which treaty is word for word as follows, to wit:

ARTICLES OF A TREATY *made and concluded at Buffalo Creek, in the State of New York, on the twentieth day of May in the year one thousand eight hundred and forty-two, between the United States of America, acting herein by Ambrose Spencer their Commissioner, thereto duly authorized, on the one part and the chiefs, headmen; and warriors of the Seneca nation of Indians, duly assembled in council, on the other part.*

Whereas a treaty was heretofore concluded, and made between the said United States, and the chiefs, headmen, and warriors of the several tribes of New York Indians, dated the fifteenth day of January in the year one thousand eight hundred and thirty-eight, which treaty having been afterwards amended, was proclaimed by the President of the United States, on the fourth of April one thousand eight hundred and forty, to have been duly ratified.

And whereas on the day of making this treaty, and bearing even date herewith, a certain indenture was made executed and concluded by and between the said Seneca nation of Indians and Thomas L. Ogden, and Joseph Fellows, assignees under the State of Massachusetts, in the presence, and with the approbation of a Commissioner appointed by the United States, and in the presence and with the approbation of Samuel Hoare, a superintendent on the part of the commonwealth of Massachusetts, which indenture is in the words and figures following to wit:

"THIS INDENTURE made and concluded between Thomas Ludlow Ogden of the city "of New York, and Joseph Fellows of Geneva, in the county of Ontario of the one part, "and the chiefs and headmen of the Seneca nation of Indians, on the other part at a coun-"cil duly assembled and held at Buffalo Creek in the State of New York on the twentieth "day of May in the year one thousand eight hundred and forty-two in the presence of "Samuel Hoare, the superintendent thereto authorized and appointed by and on the part "of the commonwealth of Massachusetts, and of Ambrose Spencer a Commissioner thereto "duly appointed and authorized on the part of the United States.

"Whereas at a council held at Buffalo Creek, on the fifteenth day of January in the "year one thousand eight hundred and thirty-eight, an indenture of that date was made and "executed by and between the parties to this agreement, whereby the chiefs and headmen "of the Seneca nation of Indians for the consideration of two hundred and two thousand "dollars did grant, bargain, release and confirm unto the said Thomas Ludlow Ogden and "Joseph Fellows, all those four several tracts of land, situate within the State of New "York, then and yet occupied by the said nation, or the people thereof, severally described "in the said indenture, as the Buffalo Creek Reservation containing by estimation forty-nine "thousand nine hundred and twenty acres of land, the Cattaraugus Reservation containing "by estimation twenty-one thousand six hundred and eighty acres of land, the Allegany

#241

"Reservation, containing by estimation thirty thousand four hundred and sixty nine acres "of land, and the Tonnewanda Reservation containing by estimation twelve thousand eight "hundred acres of land; a duplicate of which indenture was annexed to a treaty of the "same date made between the United States of America and the chiefs, headmen, and "warriors of the several tribes of New York Indians assembled in council; which treaty was "amended and proclaimed by the President of the United States on the fourth of April "one thousand eight hundred and forty, as having been duly ratified, as by the said inden-"ture, treaty and proclamation more fully appear.

"And whereas divers questions and differences having arisen between the chiefs and "headmen of the Seneca nation of Indians or some of them, and the said Thomas Ludlow "Ogden and Joseph Fellows in relation to the said indenture, and the rights of the parties "thereto, and the provisions contained in the said indenture being still unexecuted, the said "parties have mutually agreed to settle, compromise and finally terminate all such questions "and differences on the terms and conditions hereinafter specified.

"Now therefore it is hereby mutually declared, and agreed, by and between the said "parties as follows:

"Article First. The said Thomas Ludlow Ogden and Joseph Fellows in consideration "of the release and agreements hereinafter contained, on the part of the said Seneca; nation "do on their part consent, covenant and agree that they the said nation (the said indenture "notwithstanding) shall and may continue in the occupation and enjoyment of the whole of the "said two several tracts of land, called the Cattaraugus Reservation, and the Allegany Reser-"vation with the same right and title in all things; as they had and possessed therein imme-"diately before the date of the said indenture, saving and reserving to the said Thomas Lud-"low Ogden and Joseph Fellows the right of pre-emption, and all other the right and title "which they then had or held in or to the said tracts of land.

"Article Second. The chiefs and headmen of the Seneca nation of Indians in conside-"ration of the foregoing, and of the agreement next hereinafter contained, do on their part, "grant, release and confirm unto the said Thomas Ludlow Ogden, and Joseph Fellows, and to "their heirs and assigns, in joint tenancy, the whole of the said two tracts of land severally "called the Buffalo Creek Reservation, and the Tonnewanda Reservation, and all the right "and interest thereon of the said nation.

"Article Third. It is mutually agreed, between the parties hereto that in lieu of the sum "expressed in the said indenture, as the consideration of the sale, and release of the said "four tracts of land, there shall be paid to the said nation a just consideration sum, for the "release of the two tracts, hereby confirmed to the said Ogden and Fellows, to be estima-"ted and ascertained as follows:

"The present value of the Indian title to the whole of the said four tracts of land, inclu-"ding the improvements thereon, shall for all the purposes of this present compact, be "deemed and taken to be two hundred and two thousand dollars, of which sum one hundred "thousand dollars shall be deemed to be the value of such title in and to all the lands within "the said four tracts exclusive of the improvements thereon, and one hundred and two "thousand dollars to be the value of all the improvements within the said four tracts, and of "the said sum of one hundred thousand dollars the said Ogden and Fellows shall pay to the "Seneca nation such proportion as the value of all the lands within the said two tracts called "the Buffalo Creek, and Tonnewanda Reservations shall bear to the value of all the lands "within all the said four tracts—and of the said sum of one hundred and two thousand dollars, "the said Ogden and Fellows shall pay such proportion as the value of the improvements on "the same two tracts, shall bear to the value of the improvements on all the said four tracts.

"Article Fourth. The amount of the consideration moneys to be paid in pursuance of "the last preceding article, shall be determined by the judgment and award of arbitrators, one "of whom shall be named by the Secretary of the War Department of the United States, and "one by the said Ogden and Fellows, which arbitrators in order to such judgment and award, "and to the performance of the other duties hereby imposed on them, may employ suitable "surveyors to explore examine and report on the value of the said lands and improve-"ments, and also to ascertain the contents of each of the said four tracts, which contents "shall govern the arbitrators as to quantity in determining the amount of the said considera-"tion money.

"The same arbitrators shall also award and determine the amount to be paid to each in-"dividual Indian out of the sum which on the principles above stated, they shall ascertain "and award to be the proportionate value of the improvements on the said two tracts called "the Buffalo Creek Reservation and the Tonnewanda Reservation, and in case the said arbi-

" trators shall disagree as to any of the matters hereby submitted to them, they may choose " an umpire whose decision thereon shall be final and conclusive, and the said arbitrators " shall make a report in writing of their proceedings in duplicate, such reports to be acknow- " ledged or proved according to the laws of the State of New York, in order to their being " recorded, one of such reports to be filed in the office of the Secretary of the Department " of War, and the other thereof to be delivered to the said Thomas L. Ogden and Joseph " Fellows.

" Article Fifth. It is agreed, that the possession of the two parts hereby confirmed, to " the said Ogden and Fellows, shall be surrendered and delivered up to them, as follows, viz: " The forest or unimproved lands on the said tracts, within one month after the report of " the said arbitrators, shall be filed, in the office of the Department of War, and the improved " lands within two years after the said report shall have been so filed; Provided always " that the amount to be so ascertained and awarded, as the proportionate value of the said " improvements, shall on the surrender thereof be paid to the President of the United States, " to be distributed among the owners of the said improvements, according to the determi- " nation and award of the said arbitrators, in this behalf, and provided further that the conside- " ration for the release and conveyance, of the said lands shall at the time of the surrender " thereof, be paid or secured to the satisfaction of the said Secretary of the War Department, " the income of which is to be paid to the said Seneca Indians annually.

" But any Indian having improvements may surrender the same, and the land occupied " by him, and his family at any time prior to the expiration of the said two years, upon the " amount awarded to him for such improvements, being paid to the President of the United " States, or any agent designated by him for that purpose by the said Ogden and Fellows, " which amount shall be paid over to the Indian entitled to the same, under the directions " of the War Department.

" Article Sixth. It is hereby agreed and declared, to be the understanding and intent of " the parties hereto, that such of the said Seneca nation, as shall remove from the State of New " York, under the provisions of any treaty, made or to be made, between the United States " and the said Indians, shall be entitled in proportion to their relative numbers to the funds " of the Seneca nation, and that the interest and income of such their share and proportion " of the said funds, including the consideration money to be paid to the said nation in pur- " suance of this Indenture, and of all annuities belonging to the said Nation shall be paid to " the said Indians so removing at their new homes, and whenever the said tracts called the " Allegany and the Cattaraugus Reservations, or any part thereof, shall be sold and conveyed " by the Indians remaining in the State of New York, the Indians so removing shall be " entitled to share in the proceeds of said sales in the like proportion. And it is further " agreed and declared, that such Indians owning improvements in the Cattaraugus and Al- " legany tracts as may so remove from the State of New York, shall be entitled on such " removal, and on surrendering their improvements to the Seneca nation, for the benefit of " the nation to receive the like compensations for the same, according to their relative values, " as in the third and fourth articles of this treaty are stipulated to be paid, to the owners " of improvements in the Buffalo Creek and Tonnewanda Tracts, on surrendering their " improvements; which compensations, may be advanced by the President of the United " States, out of any funds, in the hands of the Government of the United States, belonging " to the Seneca nation, and the value of these improvements shall be ascertained and re- " ported by the Arbitrators, to be appointed in pursuance of the fourth article.

" Article Seventh. This Indenture is to be deemed to be in lieu of, and as a substitute " for the above recited Indenture made and dated the fifteenth day of January, one thousand " eight hundred and thirty-eight, so far as the provisions of the two instruments may be incon- " sistent, or contradictory, and the said Indenture so far as the same may be inconsistent with " the provisions of this compact, is to be regarded, and is hereby declared to be rescinded " and released.

" Article Eighth. All the expenses attending the execution of this Indenture and com- " pact including those of the arbitration and surveys hereinbefore referred to, and also those of " holding the treaty now in negotiation between the United States and the said Seneca Nation, " except so far as may be provided for by the United States, shall be advanced and paid by " the said Ogden and Fellows.

" Article Ninth. The parties to this compact mutually agree to solicit the influence of " the Government of the United States to protect such of the lands of the Seneca Indians, " within the State of New York, as may from time to time remain in their possession from " all taxes, and assessments for roads, highways, or any other purpose until such lands shall

be sold and conveyed by the said Indians, and the possession thereof shall have been "relinquished by them.

"In witness whereof, the parties to these presents have hereunto, and to three other "instruments of the same tenor and date, one to remain with the United States, one to "remain with the State of Massachusetts, one to remain with the Seneca Nation of Indians, "and one to remain with the said Thomas Ludlow Ogden and Joseph Fellows, interchange-"ably set their hands and seals the day and year first above written."

THEREFORE taking into consideration the premises it is agreed and stipulated by and between the United States of America and the Seneca nation of Indians, as follows, to wit:

First, The United States of America consent to the several articles and stipulations contained in the last recited Indenture between the said nation, and the said Thomas Ludlow Ogden and Joseph Fellows, above set forth.

Second, The United States further consent and agree that any number of the said nation, who shall remove from the State of New York, under the provisions of the above mentioned Treaty proclaimed as aforesaid, on the fourth day of April one thousand eight hundred and forty, shall be entitled in proportion to their relative numbers to all the benefits of the said Treaty.

Third, The United States of America further consent and agree, that the tenth article of said Treaty proclaimed as aforesaid on the fourth day of April one thousand eight hundred and forty, be deemed, and considered as modified, in conformity with the provisions of the Indenture hereinabove set forth, so far as that the United States will receive and pay the sum stipulated to be paid as the consideration money of the improvements therein specified, and will receive, hold and apply the sum to be paid, or the securities to be given for the funds therein mentioned, as provided for in such Indenture.

In testimony whereof the undersigned Ambrose Spencer Commissioner on the part of the United States of America, and the undersigned chiefs and headmen of the Seneca nation of Indians, have to two parts of this treaty, one thereof to remain with the United States, and the other thereof with the Seneca nation of Indians set their hands and affixed their seals the day and year first above mentioned.

AMBROSE SPENCER, [L. S.]

Tit-ho-yah or William Jones,	his x mark	[L. S.]	Ten-wan-ne-us or Governor Black Snake,	x mark	[L. S.]
Saul La-gure,		[L. S.]	Doa-ne-pho-gah or Little Johnson,	his x mark	[L. S.]
Gau-geh-gah-doh or George Jamison,	his x mark	[L. S.]	Joh-nesh-ha-dih or James Stevenson,	his x mark	[L. S.]
N. T. Strong,		[L. S.]	Ho-wah-tan-eh-goh or John Pierce,	his x mark	[L. S.]
Han-neh-hoyes-soh or Blue Eyes,	his x mark	[L. S.]	Da-gon-on-de or William Patterson,	his x mark	[L. S.]
Jabez Stevenson,		[L. S.]	Samuel Gordon,		[L. S.]
William Krouse,			Tunis Halftown,		[L. S.]
Samuel Wilson,	his x mark	[L. S.]	Hau-sa-nea-nes or White Seneca,	his x mark	[L. S.]
or Nu-ge-ja-ca,			Gah-nang-ga-eot or Young Chief,	his x mark	[L. S.]
William Krouse,		[L. S.]	Thomas Jameson,		[L. S.]
John Seneca, or Je-on-da-geh,	his x mark	[L. S.]	Moses Stevenson,		[L. S.]
Ho-ney-ses or Jacob Bennett,	his x mark	[L. S.]	Jonah Armstrong,	his x mark	[L. S.]
George Turkey,		[L. S.]	Joseph Silverheels		[L. S.]
Daniel Fan Guns,		[L. S.]	Da-o-as-sah-au or Jo. Hunlock,		[L. S.]
Goat-ban-oh or Billy Shanks,	his x mark	[L. S.]	George Fox		[L. S.]
Daniel Fan Guns,		[L. S.]	Yaw-sau-ge or Peter Johnson	his x mark	[L. S.]
Goat-ban-oh or Billy Shanks,	his x mark	[L. S.]	Noh-sok-dah or Jim Jonas,	his x mark	[L. S.]
James Pierce,	his x mark	[L. S.]	Dih-no-se-du or Jacob Shongo,	his x mark	[L. S.]
Gi-eout-twa-geh or Robert Watt,	his x mark	[L. S.]			
Thompson S. Harris,		[L. S.]			
Sah-go-en-toh or Morris Halftown,	his x mark	[L. S.]			

Seneca White,		[L. S.]	John Kennedy, Sen.,	his x mark	[L. S.]
Gosh-u-aw or			Abram John,	his x mark	[L. S.]
James Shongo,	his x mark	[L. S.]	Job Pierce,	his x mark	[L. S.]
Jarvis Spraing,		[L. S.]	Saw-da-ne or		
Ti-at-tah-co or			George Deer,	his x mark	[L. S.]
Adam Doxtader,	his x mark	[L. S.]	Ga-na-waw or		
Moris B. Pierce,		[L. S.]	John Cook,	his x mark	[L. S.]
So-gooh-quas or			Jaw-ne-es or		
John Tallchief	his x mark	[L. S.]	John Dickey,	his x mark	[L. S.]
Isaac Halftown,	his x mark	[L. S.]	George Big Deer,	his x mark	[L. S.]
David Snow,	his x mark	[L. S.]	Nah-joh-gau-eh		
John Bark,	his x mark	[L. S.]	or Tall Peter,	his x mark	[L. S.]
George Killbuck,	his x mark	[L. S.]	John Kennedy, Jr.,		[L. S.]
George Dennis,	his x mark	[L. S.]			

Signed sealed and delivered in the presence of — The words "and Allegany" in the sixth page being interlined.

A. Dixon *Com'r. on the part of New York.*
Benj. Ferris,
Orlando Allen,
Asher Wright,
O. H. Marshall,
Elam R. Jewett,
Courtland B. Stebbins,
Joseph S. Wasson.

Approv'd Aug. 25, 1842.

JOHN TYLER.

Now, therefore, be it known, that I, JOHN TYLER, President of the United States of America, having seen and considered said treaty, do, in pursuance of the advice and consent of the Senate, as expressed in their resolution of the twenty-fourth of August, one thousand eight hundred and forty-two, accept, ratify, and confirm the same, and every article and clause thereof.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, having signed the same with my hand.

Done at the City of Washington, the twenty-sixth day of August,
[L. S.] in the year of our Lord one thousand eight hundred and forty-two, and of the Independence of the United States the sixty-seventh.

JOHN TYLER.

By the President:

Daniel Webster, *Secretary of State.*

Dept. of N. Gt.
A. Spencer No 3106
Lyons, Feby 23/42

Has rec.d appmt. constituting him Comr. to treat with the Aucas in N. Gt., also copy of his letr of 15 Jan. 1843 with the Sig. Nations & letter of instructions of 17 Feb. '42. — In view of the contemplated treaty, makes certain inquiries preparatory.

Rec.d March 1842
answ.d March 4. '42

Lyons February 23d. 1842.

Sir.

I had the honor to receive last evening a letter of appointment constituting me a commissioner on the part of the United States "to hold a treaty with the Seneca tribe of Indians residing in the western part of the State of New York"; also a copy of a treaty between the United States & the six nations of Indians of the 15th of January 1838. as amended by the Senate June 21. 1838. & ratified by the President; and also a letter of instructions from you dated 17th. of February 1842.

I had signified to the Secretary of war, my consent to accept & execute the trust now confided to me, & the motives which induced that acceptance. On reading the documents you have sent to me I find my boundaries quite limited & rather anomalous, & it seems to me after all that the United States are scarcely represented altho the treaty is to be made between them & the Seneca tribe of Indians. The principal & perhaps sole object of the treaty as you represent, is to enable altho Mr. Ogden & Fellows to reconvey to the Senecas all the lands ceded to them on the 15th. of January 1838. except the Buffalo & some other portion of the land ceded, on the principles stated in your letter. By the 15th. article of the treaty of 1838. there is a stipulation on the part of the United States to appropriate $400.000. for certain purposes therein expressed - In your letter of instructions there is this sentence "In effecting the purposes, the department

has in view, justice to the Indians & to Ogden & Fellows; the adjustment of a much agitated & troublesome question, by an argument that shall be satisfactory to all concerned, while it will relieve the treasury from a pecuniary burthen &c &c"

How am I to understand this? Is it intended in the projected treaty to expunge or modify the 15th. article of the treaty of 1838" - If so, then it seems to me definite instructions to that end should be furnished to me. From the fact that the Senecas are to have a re-cession of a large part of the lands conveyed to Ogden & Fellows, it is inferable that at present they do not intend to emigrate, or at least only a part of them.

Perhaps I have given you unnecessary trouble by these enquiries. It may have been your intention to send me, such parts of the contemplated treaty as will express the views & intentions of the government. or perhaps further instructions were intended to be given to me.

It is not my wish to have my powers enlarged, but not being familiar with the duties now devolved on me, I considered it proper to make the enquiries I have, to the end, that I might know precisely what is expected of me.

With high respect
Your Obed. Serv.
D. Spencer

Hon. J. Hartley Crawford
War Department &c.

New York 12 March 1842

Hiram B. Potter Esq.

Dear Sir.

I have received your letter of the 5th Inst. Mr Haven had informed me of the active exertions of Mr Osborne and I am glad to learn that they have been in a great degree effectual in Checking the plunder of our timber. Mr Haven advised the Appointment of a faithful Energetic Agent living on the Reservation who could give his time and attention to the protection of this property, and I desired Mr Fellows to select one.

In answer to your Enquiries concerning the particulars of the new proposed Arrangement with the Senecas, I now give them, trusting that you will make a discreet use of them.

The Senecas are to keep (under their original title) the whole of the Cattaraugus and Allegany tracts, and we, the whole of the Buffalo and Tonnewanta tracts, the Consideration for which, payable to the Nation, is to be such proportion of $100000. as the value of the two East tracts shall bear to the value of the whole four, and the sum to be paid for Improvements is to be such proportion of $102.000. as the value of the Improvements on the two shall bear to the whole value of the Improvements on the four Tracts. these proportions and the amount payable to individual Indians to be determined by Arbitrators one to be named by the Secretary of war, the other by us, & in Case of disagreement by an Umpire. Possession of the forest Land to be delivered within one month, and the Improvements within one year, after the report of the Arbitrators shall be filed in the Department of war — the National fund being paid or secured to the satisfaction of the Secretary, at the time of the surrender of the forest Lands and the Improvements to be paid for on their surrender.

The Emigrating Indians to be entitled, in proportion to their numbers, to the National funds of the Senecas, including the purchase money on the

present sale, the interest of such their share and also their share of all annuities belonging to the Nation, to be paid at their new Homes - and on any future sale of the Cattaraugus and Allegany Tracts, the emigrating Indians are in the same proportion to share in the proceeds. - The Company to unite with the Indians in soliciting the interference of the Government to protect the Indian Lands from all taxes and Assessments for highways or any other purpose whilst they continue in Indian Occupation.

Simultaneously with this new Compact the Government are to enter into a new Treaty with the Senecas, consenting to these stipulations and agreeing that such of the Senecas as shall remove under the old Treaty of the 15 January 1838, shall be entitled in proportion to their Numbers, to all the benefit of that Treaty - that the 10th Article shall be modified according to the provisions of the present Compact between the Senecas and our Company, and that they (the Government) shall, according to those provisions, receive and distribute the improvement fund, and hold and apply the National fund.

In the whole course of this negotiation I have been very tenacious of the rights of the Emigration party, and I think they are well secured.

I do not well understand your remarks as to the Conduct of the Proprietors in refusing to make further advances - All our Engagements were predicated on the acquisition of the Indian title - That title we have not yet acquired, nor under any circumstances can legally acquire until the 4 April 1845. We are compelled by the force of concurring opinions to consider such to be the true Construction of the Bargain you made for us - How then could you complain if all our payments had been postponed until that day? And what possible right have you now to complain, that you are not paid in full when as yet we have no benefit from your services, but on the Contrary are suffering the most serious loss and inconvenience -

As to Schermerhorn (who was employed on your recommendation)

it happened that he gave me a little convenient accommodation in the times and amounts of payments, and I gave him my own notes which he negotiated here, and I was compelled to pay - Nolens - Volens -

Stryker's necessities and importunities have worked on our feelings towards his suffering family. Otherwise we have made no distinctions

Dear Sir respectfully
and sincerely
T. L. Ogden

Thos. L. Ogden
Feby 18. 1842

Recd. Feby 21.
Ans. Mar. 5.

N.Y.

Postage

Thomas B. Fitts Esq

No. 234.

We, Thomas Mercer Jones, of the Town of Goderich, County of Huron, Huron District and Province of Canada, and Frederick Widder, of the City of Toronto, County of York, Home District and Province aforesaid, Esquires, the attornies of the said Canada Company, incorporated under and by virtue of an Act made and passed in the sixth year of the reign of His Majesty King George the Fourth, entitled: "An Act to enable His Majesty to grant to a Company, to be incorporated by Charter, to be called 'The Canada Company,' certain lands in the Province of Upper Canada, and to invest the said Company with certain powers and privileges, and for other purposes relating thereto," being constituted and appointed such attornies by virtue and in pursuance of an Act passed in the ninth year of the reign of His Majesty King George the Fourth, entitled: "An Act to alter and amend an Act for enabling His Majesty to grant to a Company, to be incorporated by charter, to be called 'The Canada Company,' certain lands in the Province of Upper Canada," do hereby, in consideration of the sum of two hundred and seventy-five pounds lawful money of the Province of Canada, to us, as such attornies, as aforesaid, paid by Samuel P. Jarvis, Chief Superintendent of Indian Affairs, grant and release, yield up and surrender unto Our Sovereign Lady Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, and to Her heirs and successors, all that certain parcel or tract of land situate as follows: Composing lots twenty-one and twenty-three, in Concession C, of the Township of Delaware, County of Middlesex, London District and Province of Canada aforesaid, containing by admeasurement four hundred acres of land, be the same more or less, and all the right, title and interest of the said Canada Company to and in the same and every part thereof, to have and to hold unto Our said Lady the Queen, Her heirs and successors forever.

In Witness Whereof, we the said Thomas Mercer Jones and Frederick Widder have hereunto subscribed our hands, as attornies of the said Canada Company, and affixed our seal of office at the City of Toronto, in the Province of Canada, this twelfth day of March, in the year of Our Lord one thousand eight hundred and forty-two.

Signed, sealed and delivered in presence of:
Donald McDonald,
Thos. Collier.

THOS. MERCER JONES, [L.S.]
FREDK. WIDDER. [L.S.]

Received the above deed with memorial 24th day of March, 1842.

SAML. P. JARVIS,
Ch. S. I. Affairs.

We certify that the above is a true and correct copy of a deed of surrender to Her Majesty the Queen, dated as above, and recorded in Vol. 13, folio 147, of Deeds.

HERBERT HAMILTON,
C. G. HALLSWELL.

J. Michel,

No. 235.

PROVINCE OF CANADA.

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To all to whom these presents shall come,—Greeting:

Grant to the Oneidas, of the River Thames, 400 acres, Township of Delaware,, County of Middlesex. Recorded 4th April, 1867. Dep. Prov. Reg.

Whereas, in the year of Our Lord one thousand eight hundred and forty, certain Indians of the Oneida Tribe, to the number of four hundred and thirty-six persons, having a purpose and desire to become subjects of the British Crown, did emigrate from the United States of America and become inhabitants of the Township of Delaware, in the County of Middlesex, in the western section of our Province of Canada. And did, thro' the instrumentality of the officers of the Indian Department, purchase

O. T. & New York
No 3124

A. Spencer Esq
Albany Mch 18th 1842

Suggests the propriety of postponing time for holding Council with the Indians until middle of April or 1st of May — which will be informed at A. [illegible] of the determination in the premises.

[illegible]

[illegible]

STEAMBOAT

Recd 19 March '42

File

Albany March 16th 1842.

Dear Sir.

I arrived in this City this day on a visit to my friends & I presume you have rec.d a letter written to you on the 1st instant acknowledging the receipt by me of a letter from you & also one from the Secretary of war with some papers. I recommended the postponement of the time of holding the Council with the Seneca Indians on account of the badness & even dangerous state of a portion of the roads. I think a delay for better weather & better roads would accommodate the parties as well as myself. I now wish you as soon as you can decide to be informed of it by a letter to be directed to me here, as I propose in the event of your postponing the council until the middle of April or 1st May, (& I think the latter the better time) to pay a short visit to Washington.

I write to you instead of the Secretary, as it I suppose comes within your province.

respectfully your
obedt Servt
T Spencer

O. I. & New York

A. Spencer S 3125

Lyons Wayne Co. N.Y.

March 14 1842

Receipt & letter of 4th inst. in answer to his of 25th ult.; also of Sec'y. of War enclosing copy of proposed treaty, agreed upon by P. E. Thomas & others, in behalf of the Sac & Mesquakie Ogden, Fillmore &c.

Suggests from the bad state of the Roads, that the time of ratifying may be fixed upon for best of Council with the Indians &c

Rec'd. 21 March 1842

Filed

Cons File

Lyons Wayne Co N.Y. March 14. 1842

Sir.

I duly received your letter of the 4th instant in answer to mine of the 23d. Ultimo; & by the same mail I also received a letter from the Secretary of war enclosing a copy of the proposed treaty as agreed upon by Mr. P. E. Thomas & other leading Quakers in behalf of the Seneca Indians & Messrs. Ogden & his associates, accompanied with several remarks for my governance. As no time has as yet been fixed on for holding the council, I would suggest, that as the roads are now very bad between Batavia & Buffalo, & as the grounds about Buffalo are also very wet & muddy, that it would be much to the convenience of all concerned to put off the Council until near or about the first of May.

I understand the road from Batavia to Buffalo is absolutely dangerous. I leave here tomorrow for Albany, any letter from the department will find me there for the next three weeks.

I trust, that in the execution of the duties assigned to me, my conduct will not disappoint those, who have confided this trust to me.

with esteem & respect
Your Obed.t Serv.t
D. Spencer

Hon. J. Huntley Crawford

New York 2 April 1842

My dear Sir

My friends Philip E. Thomas & Benjamin Ferris are now here on their Way to Buffalo for the purpose of conferring with the Seneca Indians on the Subject of the proposed Modefications of the Treaty of 15 January 1838.

They are influential Members of the Society of friends and take a deep Interest in the welfare of the New York Indians and especially of the Senecas. They are satisfied that the Compromise of which I have given you the outline, is calculated to secure to this latter tribe great benefits, leaving to those inclined to remain in this State sufficient land for all their purposes as Agriculturists, and at the same time providing for them a considerable augmentation of their stated annual receipts in Money. With these views they profess to be, and no doubt are, sincerely desirous to induce the tribe to give their general Assent to the Compromise. We have assented to it, and are equally desirous that it should be carried into full Effect.

In introducing these Gentlemen to your acquaintance and that of Mr Allen & Dr Wilcox, I have to ask your united Co operation in furthering the Object they have in view. Policy requires that this Co. operation should be exerted with great circumspection, and I have therefore to request that it may be regulated entirely by their Opinions, after you shall have apprized them of your views and those of the leading Emigration Chiefs - which I wish ~~to~~ you to do with the utmost frankness.

I lately received a Communication from white Seneca & Tonawanda Tenison asking Information concerning the Movements of the Quakers, of which they had heard various

rumors. I have in answer explained to them the heads of the proposed arrangement, which they have probably appraised you of, with some intimation of their own opinions respecting it, a knowledge of which at this juncture may be useful.

I have only to add that this association feel themselves bound in honor and good faith to promote the success of the approaching negotiation and that in conducing to this result you and your friends will perform an acceptable service not less acceptable to us than beneficial to the Indians.

I am very respectfully
Yours
T. Ewing

Herman B. Potter Esq

Heman B. Potter Esq.

Buffalo. N.Y.

Mar. 27. 1842

Rec'd Apr. 11. 1842

Ans'd " 16. "

Report of Samuel G Murray Esqr concerning the lands in Tyendinaga belonging to the Mohawks of the Bay of Quinté.

To Colonel S. P. Jarvis. C.S.I. Affairs &c &c

Camden East
April. 25. 1842.

Sir

In doing myself the honor of presenting my report of the Inspection of that part of Tyendinaga known as "the back tract of the Mohawk Reserve" I beg to submit the following general remarks in compliance with the request contained in the printed form furnished for my guidance

I would premise that altho' I have met with some interruptions from unfavorable weather and ill health, I found the undertaking a much more tedious one than I anticipated. I hope the closeness of the inspection (the greater part of it being performed on foot.) will make amends for the time bestowed on it. During the latter part of my tour in the unsettled parts I experienced much inconvenience and delay from the swollen streams and numerous impassable swamps which intersect the whole tract but especially the North East corner of it —. Having procured an excellent guide a Mohawk Indian well acquainted with the tract in question, I set out on the 28th February last and commenced at the Western limit of the Tract, namely Lot. No 1 in the North Range of the 4th Concess^n and proceeding down the line between the 4th and 5th Concessions I inspected the Lots on both sides, passing up through each, I examined the improvements thereon and the quality of the soil, timber &c throughout

sales thereof being funded and the Interest yearly divided, amongst their Chief Warriors Women and children, until for the last seven years when it entirely ceased, although during the last twelve years, they have sold to Government the lands forming the Townships of Dunn, Cayuga, Brantford and the Town of Brantford; the money arising therefrom, and their other funds being expended without their consent, to construct and improve the navigation of the Grand River for the benefit of the Whites.

2nd That upwards of Six thousand Pounds has been received by the Agent for Timber cut on their lands, who receives a salary for collecting the same, not one shilling of which the Indians ever received and they are charged £150. a year for their Trustee Col: Jarvis, and the Chiefs ask is it just that so large a part of their lands should be sold money collected for their Timber cut by the Whites, their Trustee and their Agent regularly paid their salaries and they their Warriors, Women, children and infirm for the last seven years not receiving one farthing.

3d The Chiefs further represent that a deputation of their body were examined before a Commission sitting at Kingston on Indian Affairs and it would be gratifying to them if Your Excellency would examine the statements made to the Commissioners upon that occasion and also a Memorial addressed to Lord Sydenham in the summer of 1841.

4th The Chiefs further represent that they are desirous that the Reservation for their future residence should be on the South side of the Grand River of all the lands excepting a tier of Lots on each side of the

contemplated Plank road leading from Hamilton to Port Dover, lying between the Township of Cayuga and Burtche's landing, and that lands forming the Rebow and the Eagles Nest and the Mohawk flats, (on which is erected one of their Churches) together with the Johnson settlement, should be let at short leases in order that of their young men should more closely assimilate with the whites. The Chiefs may place them on these lands, and also that the Lot at Tuscarora whereon is erected another of their Churches should be reserved.

5th The Chiefs further represent, that in consequence of the majority of the Six Nations Indians having determined to remove to the South side of the River a great number of buildings will have to be erected, they therefore wish to have the sole control of the timber so that they may be enabled to make the most advantageous bargains with the Saw mill proprietors to saw their Timber; at present (they say) a poor Indian cannot take a saw log off the lands that the Government always said was their own, they therefore wish that your Excellency will allow them to appoint an Agent in whom they have confidence to protect their rights and also to select a Commissioner under the Provincial Law to remove Squatters with whom their tract on the South side of the ~~river~~ river is now infested.

6th The Chiefs further express their wish that all those Indians who are at present residing on the North side of the Grand River may remain to enjoy their improvements unmolested and that the unoccupied lands in the Martin settlement may be let at short leases

7th The Chiefs further represent, that they are informed that if it is the intention of the Government to sell their lands, requiring one third of the purchase money down. They

remonstrate against any such course on the following grounds, the scarcity of money in the country would place it out of the power of actual settlers to comply with the terms consequently they would resort to the Canada Company who do not require any advance (they say) their lands will remain unsold and they would derive no benefit from them unless they submitted to a sacrifice at the hands of money speculators, all that the Chiefs and Warriors can touch is the interest, and why not let the industrious settler have the benefit of using the principal as well as a banking institution, for if sold for cash, the same must be funded, and the use of one third of the purchase money would be a great assistance to the poor settler. The Chiefs only wish the interest of the purchase money to be paid in advance and they say that the improvements of the settler will be an ample security for the payment of the principal and of the interest annually.

8th The Chiefs further represent that it is in contemplation to reserve part of their lands for Town plots; against any such reservations they strongly remonstrate as they have had full enough of such visionary schemes, a large reservation being made in the Township of Cayuga and cleared at a great expense to the Indians and as yet only two or three of the Lots being sold although the same have been in the market for the last ten or twelve years; (they say) that it is the wish of the Six Nations that all their lands excepting what they have above stated should immediately be brought into market and sold and only the interest on the purchase money be required in advance and the interest annually so that their poor women

and children and infirm may receive some benefit from what was set apart by a munificent Sovereign for their support.

9th The Chiefs further state that in consequence of the seat of Government being at Kingston, the expense of the Chiefs in waiting on the representative of their Sovereign weighs heavy on their scanty means. They therefore desire to appoint an Agent who can transact their affairs with the Government and who will attend to and conduct their affairs on the River.

The Committee of Council have examined and considered the several allegations and requests set forth as above, and respectfully offer to your Excellency in Council the following remarks upon the same referring thereto as above classed and enumerated.

1st The Surrenders which have from time to time been made of the lands on the Grand River were in the first place at the instance of the Agents appointed on the recommendation of the Indians themselves, these Agents being their own principal Chiefs it would be very difficult at this time to trace the consideration given for numerous leases for 999 years of large tracts of the Grand River lands at nominal rents which leases were made without the ~~know~~ approbation or knowledge of the Government. Sir John Colborne finding it impracticable to repudiate these leases after long possession held under them adopted the measure of changing the illegal titles, they appeared to confer into fee simple on the Report of the Indian Trustees and by grant from the Crown: a considerable portion of the Indian territory thus became alienated without any known advantage to the Indian funds, but certainly the alienations did not arise from any advice or action of the Government.

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Other large dispositions of the Indian lands took place by sale upon the recommendation of the principal Chiefs and Agents of the Indians at prices which now appear inadequate, but for these sales the Government has nothing to reproach itself with, except it may be for too easily yielding to recommendations from persons in the confidence of the Indians themselves.

Individual Indians have for many years without the consent of the Government and without the authority even of the Indian Chiefs in Council been in the habit of making sales of their possessions and improvements; under these sales Individual Settlers came into possession of Indian lands; and when the Townships of Brantford, Dunn & Cayuga were, on the recommendation of Sir John Colborne, surrendered for sale although no title was acknowledged as derived from the sales by the Indians yet the possessors of farm lands thereunder were permitted to purchase from the Crown at auction, without paying for the improvements, and in cases where others bid higher than the possessors the former were held liable to pay for the improvements, in other instances the possessors were allowed to purchase at the upset price of the respective Townships.

The Moneys arising from the several sales of Indian lands were from time to time invested in the English funds, until the projection of the Grand River Navigation in which the Provincial Government thought it for the interest of the Indians that they should become partners.

The Indian funds invested in England were not withdrawn for the purpose of investment in the Stock of the Grand River Navigation Company, but those

arising from the yearly dividends thereupon as well as from the sales of lands, were so invested and these funds were anticipated by means of loans made by Mr Dunn as Indian Trustee, from the Bank for the purpose of paying the first instalment on the Stock.

The subscription for a large amount of Stock, ~~on the part~~ involved of the Indians fund in the liability of paying future instalments as they should be called in by the Directors on pain of forfeiture of the sum already paid.

When, therefore, on the 22 June 1839 an application was made on behalf of the Company who had called in further Instalments, it appeared that about £20,000 of Indian money had been invested in the payment of 55 per cent in the Stock subscribed for and that the Indian fund owed a sum of £1836-14-11 for stock called in and that for debts due by the Company, its whole property had been seized in execution and was about to be sold to satisfy the claim by which operation the whole of the paid in Stock would have been irretrievably lost to the Indians, the Council most reluctantly recommended a payment of One thousand Pounds on account of the sum due which was assented to by Sir George Arthur. Afterwards in 1840 on the 21st January on a further claim of a like kind having been referred by Lord Glenelg, the Council seeing no means of withdrawing the Indian funds from the investment felt obliged to recommend a further payment of £836. 8. 11 in both instances protesting against the propriety of engaging the Indian fund in a speculation of this nature.

Afterwards on the 3 August 1840, Sir George Arthur referred for the consideration of the Council a Report of the Receiver

General, stating that a further instalment had been called on and that in consequence of the payment of Indian debts, the amount in his hands had been reduced to £419" 14" 1 belonging to the Six Nations fund and that he was therefore unable to meet the new Instalment upon the Stock and thereupon the Receiver General was authorized to accept the drafts of the Company for a sum sufficient to meet the new demand.

The same process was repeated in a reference by Sir Charles Bagot respecting a demand for two additional instalments.

These payments have left the Six Nations fund in debt to the Receiver General upwards of £5000, and the Company are moreover calling on the remaining instalments, which will create new demands to be provided for in the same way to avoid the forfeiture of the invested stock.

In the mean time the representation of the Indian interests in the Board of Directors had been provided for by Act of Parliament and the navigation of the Grand River up to Brantford draws near to its completion.

By the Report of the Directors for the year 1842 it appears that a revenue from the work of £522 over and above its expenses had been realized; that this revenue was increasing and would be materially augmented immediately upon the completion of the Navigation to Brantford.

These facts making it still more imperative upon the Government to preserve the interests of the Indians in the Navigation Stock if not on the ground that the investment was in the first place

prudent, on the principle that forfeiture of the Stock now more than ever to be avoided.

The completion of the Grand River Navigation will place the Indians in possession for their yearly relief of the sum arising from their English investment in addition to which they will participate in the profits of the work the remaining proceeds of their land will be invested so as to increase this revenue.

The sums due upon sales of Indian lands will also be coming in, so that the Indians will shortly be certainly in a better position as to pecuniary affairs than they ever were before; in the meantime, however the Government cannot retrace the steps of investing Indian monies in the Grand River Navigation Stock or refrain from appropriating Indian funds for the preservation of the Indian interest therein.

The best course that can in the opinion of the Committee be adopted for the relief of the Indians, will be the realization as quickly as possible of a sufficient sum from the sale of Indian lands, to reimburse the Receiver General and to pay up the remaining instalments upon the Stock, which objects the Committee think can speedily be accomplished by means of the sale of the lands on the North side of the Grand River now surrendered and by praying for the instalments due on former sales of Grand River lands; the principal sum of these arrears being about £11000, on which also is due a large amount of interest.

2 The monies really received by the Receiver General on account of timber cut on the Grand River lands and carried to the credit of the Six Nation fund appears to amount to £1166-17-7. It is true the money has not been paid to the Indians, but it has

been disposed of in the same manner as the proceeds of the sales of Indian lands. The Committee have not any detailed accounts of the moneys arising from Timber and in consequence of the absence of the Indian Superintendent the account cannot at present be procured. The Committee are of opinion that these moneys should have been paid to and accounted for thro' the Commissioner of Crown Lands and that moneys received on the same account should be so paid and accounted for hereafter, and that for the past the Chief Superintendent should be requested to submit a detailed account with proper vouchers for examination & audit.

With respect to the salary of One hundred and fifty Pounds per annum paid to Mr Jarvis out of the funds of the Six Nations the Committee do not at present desire to express any opinion, they are not sufficiently acquainted with the services performed for the Six Nations by Mr Jarvis to enable them to judge of the propriety of awarding him a salary out of their funds. If your Excellency however should see fit to require a Report from the Chief Superintendent on the subject, the Committee will be ready to offer to your Excellency their respectful advice in the matter which seems to deserve your Excellency's attention.

5. The Committee of Council have no official information respecting the Commission on Indian Affairs to which reference is had in the petition of the Chiefs and Sachems, neither are the Committee informed of any of the proceedings of the Commissioners and it is therefore not in their power to afford your Excellency in Council any opinion respecting the evidence

and by the petitioners to have been received by the Commission. The Committee have also to state that the memorial addressed to Sir de Lyden Ham in 1841, has not been at any time under the consideration of the Executive Council.

4th. The quantity of land proposed to be reserved from sale for the residence of the Indians on the South side of the Grand River was 20,000 an extent probably greater than they would ever use for purposes of Agriculture, the object of the government in desiring to limit the quantity of reserve was to concentrate the Indian residences to place the Indians more under the protection of government and to preserve their real possession from intrusion of the whites; the Chiefs now ask for a Reservation of all the lands on the South side of the Grand River with the exception of a tier of lots on the Plank Road from Hamilton to Port Dover a distance of more than twenty miles along the River and containing 55,000 acres, also a Tract near Brantford, called the Oxbow containing 1200 acres, another on the Northside called the Eagles nest containing 1800 acres and the Martin Tract containing 1500 with the Johnson settlement containing 7000 acres, with a lot at Tuscarora on which a Church is built. The lands comprised within the Johnson settlement the Eagles Nest, the Oxbow and Martin settlement are reported to be nearly all in possession of White settlers under titles assumed to be given by individual Indians. The Committee of Council regret that the Indian Chiefs should have been persuaded to recede from their former proposition, and to require so large a Reserve; it is manifest that by so doing if their request should be acceded to the

time when they can come into the enjoyment of any considerable revenue will be greatly postponed and as they cannot occupy and use the whole of the lands reserved they will still be exposed to the intrusion of white settlers, invited to take lands by the individual members of the Tribe. The Government however has no interest in the matter and no wish to procure the surrender of any portion of the land against the free wish of the Indians themselves however inconvenient to them the large reservation may prove and however embarrassing and difficult it may be found to keep their possession of the tract themselves, the Committee feel bound to recommend your Excellency to accede to their request, and that, for the present the Tract prayed to be reserved be not considered within the Indian Surrender.

The Committee however do not look upon this as a final arrangement. The Indians in their opinion will be the first to desire another surrender and it is to be regretted that instead of fixing themselves upon a moderate extent of land where they may be finally settled, they are induced once more to diffuse themselves over a large tract, where they will be exposed again to all the evils sought to be avoided by their removal to the South side of the River.

There can be no great objection to leasing the Johnson settlement, and the other small tracts mentioned in the petition upon short leases.

5.th If the Indians require timber for building purposes, the Committee are convinced they will have no difficulty in procuring from the Superintendent, licence to take any quantity which may be required. If they wish to give timber to the proprietors

of San Mills on payment for cutting the Timber required for building, the Superintendent should see that the transactions are fair and bonâ fide, but the Committee cannot advise your Excellency to place the timber at the sole control of the Indians or of any Agent of their appointment. Such a measure is not at all necessary for the proposed object and so long as the unfitness of the Indians to manage their own property is not denied and so long as the guardianship of the Indians remains a duty of the Government, the Committee think all agencies of their appointment should be discountenanced, and all discretion denied, the exercise or abuse of which would expose the property of the Tribes to be preyed upon by their white neighbors.

As to the request that the Indians may be allowed to select a Commissioner under the Provincial law to remove the Squatters with whom their tract on the Grand River is infested the Committee would remark that the intrusion of these Squatters is known to have taken place chiefly through the means of the Indians; and though the present surrender and the proposed reservation will involve the necessity of ejecting the intruders, without regard to the means by which they acquired possession, the Committee think the Commissioner entrusted with this duty should be appointed by your Excellency and that in the exercise of his duty he should be altogether free from the influence or control of the Indians

6. There never was any design on the part of the Government to force any Indians to abandon their improvements.

7. The terms of the sale of the land to be surrendered were settled by the Order in Council of the 27th November 1840

The adoption of the system of

deferred payments at all, was for the purpose of procuring the largest price which could be obtained for the land; one third was required down, to prevent pretended purchases for the purpose of plundering the timber, the state of the Indian fund and the necessity of procuring without delay a sufficient sum of money to discharge its liabilities make the requirement of a part of the purchase money absolutely necessary. Were the plan of sale recommended by the Indians to be followed, namely the receipt of interest only on the sales, the Indian fund would remain in debt for years, and the Indians would continue to receive no benefit from it, and their stock in the Grand River Navigation would have to be forfeited just as it is about to become valuable and profitable. The Indians in making the request evidently do not understand their own interests or the state of their finances and the Committee cannot look on their request in any other light than as a suggestion of the interested speculators by whom they are surrounded.

The Committee are of opinion that the terms of sale proposed by the said order in Council should be adhered to as regards the first payment of one third of the purchase money down, and as regards the remaining portion instead of requiring its payments by instalments, the Committee think that it will be of advantage to the Indians to make the interest payable yearly and the principal payable at any time within six years.

In this manner the interest may be recovered strictly when it becomes due, altho the purchasers may not be

able to make the large payments required by the instalment system.

8. The protest of the Chiefs against the laying out of Town or village Lots is so utterly opposed to their own interest, that the Committee do not think it necessary to enter into argument on the subject. That villages will be established in the Tract there is no doubt, that the building lots will be sold to occupants for many times the value of the land as farm land, appear certain were the positions which appear favorable for this purpose sold to speculators as farm lands; at this period the Indians would be the first complain, when they would see others allowed to become rich by founding Towns and Villages, the profits attending which belong to them. The Indians are not expected to go to any expence in clearing or improving Town plots, the building Lots therein will be sold with all possible expedition and at rates which will be sufficiently low to induce purchasers to settle on them, but at the same time very much above the price of farm lands.

9. There can be no objection to the Indians transmitting their wishes to your Excellency by any channel they may choose, but the Committee cannot recommend your Excellency to receive any individual as their accredited Agent, or to allow of any management by such an Agent of their Affairs on the Grand River. If the Indians are to be considered capable of conducting their own affairs, the sooner the Government leaves their affairs to their management the better but there cannot be a divided responsibility on such a matter. The simple means now about to be put in operation will speedily relieve the Indians from the destitution

of which they complain, and place them in a state of comparative wealth and independence, but if their white neighbors are allowed to interfere in their concerns, if other interests than their own are consulted, or if they are permitted to appoint Agents to manage their affairs as formerly the Committee have no hope of any result which would not be calamitous to the Indians or which would not bring reproach upon the ~~Indians~~ Government.

The Committee have had before them the Returns of inspection and valuation of the connected lands made by Mr Burkpatrick, Brough, and Wells, they highly approve of the valuation and the mode adopted for placing the Government in possession of all the particulars which can affect the value of the land.

They therefore recommend that the valuations be adopted and that the Commissioner of Crown lands be authorized forthwith to effect sales according to the valuation and the terms above proposed and with the same regard to the interests of persons actually in possession and residing on the land at the time of the inspection as is proposed in the Order in Council of the 27th of November 1840. with the distinct understanding that the purchases from Indians will in themselves confer no title to pre-emption and that no alleged occupation since the inspection will be recognized under any circumstances and further that no occupation of any nature, or however acquired, will be allowed to interfere with any disposition of land for Town plats, or for any other special purpose to which it may be thought for the interests of the Indians to apply the

the said lands

The consideration of the above mentioned inspection and valuations have induced the Committee to revert to the Order in Council of the 22 Dec. 1842 on the valuation of the Townships of Dunn & Cayuga and on reconsideration of that order they respectfully recommend that the addition of 25 p^r cent upon the valuation thereby ordered be taken off and the lands sold at the valuation of the Inspectors

All which is respectfully submitted

By Order

signed. R. B. Sullivan

Chairman

Council Chamber
Kingston. 3 August. 1843.

In Council. Feb. 28. 1843

On the Memorial of Daniel Thorburn Esqr. Warden of the Niagara District, Municipal Council, representing that the School Commissioners of the Township of the Indian Reserve on the. Order in Council Book

Letter. 169.

Hon.
John C. Spencer
Secretary of War.

War Department
Office Ind. Affairs
May 10. 1842.

Sir,

I have the honor to report on the papers referred to day by your direction, to this office, that in the year 1839 Deputations interested in the treaty then recently made with the New York Indians, presented themselves at the Seat of Government, one party urging the ratification, and the other opposing that course and recommending its rejection. During that session the subject of expenses was presented, jointly by both parties and a committee of Congress procured the passage of an appropriation to pay the travelling expenses and board of the parties, which amount was then divided among the deputations giving a share to each according to numbers and they required to make good the deficiency, if any, out of their own means—

Very &c
J. H. C.

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172. 171.

Hon.
John C. Spencer.
Secretary of War.

Sir

War. Department
Office Ind. Affairs
May 12. 1842.

In answer to your enquiry relative to the emigration of Florida Indians, I have the honor to state, that the whole number removed previous to the 4th. March 1841 is 2968

Since which period there has been removed at the dates respectively shown, the following:

April 1841, Maj. Belknap conducted, 210.
May " Capt McKavett do 11.
" 126.

#2 [1842, May 20]

This Indenture made and concluded, between Thomas Ludlow Ogden, of the City of New York, and Joseph Fellows, of Geneva in the County of Ontario, of the one part and the Chiefs and headmen of the Seneca Nation of Indians on the other part, at a Council duly assembled and held at Buffalo Creek, in the State of New York, on the twentieth day of May in the year one thousand eight hundred and forty two, in the presence of Samuel ROome, the superintendent thereto authorized, and appointed, by and on the part of the Commonwealth of Massachusetts, and of Ambrose Spencer, a Commissioner thereto duly appointed and authorized on the part of the United States.

Whereas at a Council held at Buffalo Creek, on the fifteenth day of January, in the year one thousand eight hundred and thirty eight, an Indenture of that date was made and executed by and between the Parties to this agreement, whereby the Chiefs and headmen of the Seneca Nation of Indians, for the consideration of two hundred and two thousand dollars, did grant, bargain, release and confirm unto the said Thomas Ludlow Ogden, and Joseph Fellows, all those four several tracts of land situate within the State of New York, then and yet occupied by the said Nation or the people thereof, severally described in the said Indenture, as the Buffalo Creek Reservation, containing by estimation forty nine thousand nine hundred and twenty Acres of land, the Cattaraugus Reservation containing by estimation twenty one thousand six hundred and eighty Acres of land, the Allegany Reservation, containing by estimation thirty thousand four hundred and sixty nine Acres of land, and the Tonnewanda Reservation containing by estimation twelve thousand eight hundred Acres of land; a duplicate of which Indenture was annexed to a treaty of the same date made between the United States of America, and the Chiefs, headmen and warriors of the several tribes of New York Indians, assembled in Council; which Treaty was amended and proclaimed by the President of the United States on the fourth

of April one thousand eight hundred and forty, as having been duly ratified; as by the said Indenture, Treaty and proclamation more fully appears.

And Whereas, divers questions and differences having arisen between the Chiefs, and headmen of the Seneca Nation of Indians, or some of them, and the said Thomas Ludlow Ogden, and Joseph Fellows, in relation to the said Indenture, and the rights of the parties thereto, and the provisions contained in the said Indenture being still unexecuted, the said parties have mutually agreed to settle, compromise, and finally terminate, all such questions and differences, on the terms and conditions hereinafter specified.

Now Therefore it is hereby mutually declared and agreed, by and between the said parties as follows.

Article First. The said Thomas Ludlow Ogden and Joseph Fellows in consideration of the release and agreements hereinafter contained, on the part of the said Seneca Nation, do on their part, consent, covenant, and agree that they the said Nation (the said Indenture Notwithstanding) shall and may continue in the occupation and enjoyment, of the whole of the said two several tracts of land, called the Cattaraugus Reservation, and the Allegany Reservation with the same right and title, in all things, as they had and possessed therein, immediately before the date of the said Indenture, saving and reserving to the said Thomas Ludlow Ogden and Joseph Fellows, the right of preemption, and all other the right and title which they then had, or held in or to the said tracts of land. –

Article Second. The Chiefs and headmen of the Seneca Nation of Indians, in consideration of the foregoing, and of the agreement next hereinafter contained, do on their part, grant release and confirm unto the said Thomas Ludlow Ogden, and Joseph Fellows, and to their heirs and assigns, in joint tenancy the whole of the said two tracts of land severally

called the Buffalo Creek Reservation and the Tonnewanda Reservation and all the rights and interest thereon of the said Nation.

Article Third. It is mutually agreed between the parties hereto, that in lieu of the sum expressed in the said Indenture, as the consideration of the sale and release, of the said four tracts of land, there shall be paid to the said Nation, a just consideration sum, for the release of the two tracts hereby confirmed to the said Ogden and Fellows, to be estimated and ascertained as follows. The present value of the Indian ~~[illegible]~~ title to the whole of the said four tracts of land, including the improvements thereon shall for all the purposes of this present Compact, be deemed and taken to be two hundred and two thousand dollars; of which sum, one hundred thousand dollars shall be deemed to be the value of such title in and to all the lands within the said four tracts, exclusive of the Improvements thereon, and one hundred and two thousand dollars, to be the value of all the improvements within the said four tracts, and of the said sum of One hundred thousand dollars, the said Ogden and Fellows shall pay to the Seneca Nation, such proportion as the value of all the lands within the said two tracts, called the Buffalo Creek and Tonnewanda Reservations, shall bear to the value of all the lands within all the said four tracts.— And of the said sum of One hundred and two thousand dollars, the said Ogden and Fellows, shall pay such proportion, as the value of the Improvements on the same two tracts, shall bear to the value of the improvements, on all the said four tracts.

Article Fourth. The amount of the consideration monies to be paid in pursuance of the last preceding Article, shall be determined by the judgment and award of Arbitrators, one of whom shall be named by the Secretary of the War Department, of the United States, and one by the said Ogden and Fellows; which Arbitrators in order to such judgment and award, and to the performance of the other duties hereby imposed on them, may employ suitable surveyors to explore, examine, and report, on the value of the said lands and Improvements, and also to ascertain the contents

of each of the said four tracts which contents shall govern the Arbitrators as to quantity in determining the amount of the said consi=deration money.

The same Arbitrators shall also award and deter=mine the amount to be paid to each individual Indian out of the sum which on the principles above stated, they shall ascertain and award to be the proportionate value of the Improvements on the said two tracts called the Buffalo Creek Reservation, and the Tonnewanda Reserva=tion, and in case the said Arbitrators shall disagree as to any of the matters hereby submitted to them, they may choose an Umpire, whose decision thereon shall be final and conclusive, and the said Arbitrators shall make a report in writing, of their proceedings, in duplicate, such reports to be acknowledged or proved, according to the laws of the State of New York, in order to their being recorded; one of such reports to be filed in the Office of the Secretary of the Department of War, and the other thereof to be delivered to the said Thomas L. Ogden, and Joseph Fellows.

Article Fifth. It is agreed that the possession of the two Tracts hereby confirmed to the said Ogden and Fellows, shall be surrendered and delivered up to them as follows, viz: The forest or unimproved lands, in the said tracts within one month after the report of the said Arbitrators, shall be filed in the Office of the Department of War — and the improved lands within two years after the said report, shall have been so filed, provided always that the amou=nt to be so ascertained and awarded as the propor=tionate value of the said Improvements, shall on the sur=render thereof, be paid to the President of the United States, to be distributed among the owners of the said Improve=ments, according to the determination and awards of the said Arbitrators in this behalf, and provided further that the consideration for the release and conveyance of the said lands shall at the time of the surrender thereof

be paid, or secured to the satisfaction of the said Secretary of the War Department, the income of which is to be paid to the said Seneca Indians annually. But any Indian having improvements may surrender the same, & the land occupied by him and his family at any time prior to the expiration of the said two years, upon the amount awarded to him for such improvements being paid to the President of the United States, or any agent designated by him, for that purpose by the said Ogden and Fellows, which amount shall be paid over to the Indians entitled to the same under the direction of the War Department.

Article Sixth. It is hereby agreed and declared to be the understanding and intent of the parties hereto, that such of the said Seneca nation, as shall remove from the State of New York under the provisions of any treaty, made, or to be made, between the United States, and the said Indians, shall be entitled in proportion to their relative numbers, to the funds of the Seneca nation and that the interest and income, of such their share and proportion of the said funds, including the consideration money, to be paid to the said nation in pursuance of this Indenture and of all annuities belonging to the said nation shall be paid to the said Indians, so removing, at their new homes and whenever the said tracts, called the Alleghany and Cattaraugus reservations, or any part thereof, shall be sold and conveyed by the Indians remaining in the State of New York, the Indians so removing shall be entitled to share in the proceeds of such sales in the like proportions. And it is further agreed and declared, that such Indians owning improvements in the Cattaraugus and Alleghany tracts as may so remove from the State of New York shall be entitled on such removal, and on surrendering their improvements to the Seneca nation for the benefit of the nation to receive the like compensations for the same according to their relative values, as in the third and fourth articles of the treaty are stipulated to be paid to the owners of improvements in the Buffalo Creek and Tonawanda tracts on surrendering their improvements, which compensations may be

advanced by the President of the United States out any funds in the hands of the Government of the United States, belonging to the Seneca nation — And the value of their improvements, shall be ascertained and reported by the Arbitrators to be appointed in pursuance of the fourth article

Article Seventh — This Indenture is to be deemed to be in lieu of, and as a substitute for the above recited Indenture made and dated the fifteenth day of January, thousand Eight Hundred and thirty eight, so far as the provisions of the two instruments, may be inconsistent or contradictory, And the said Indenture so far as the same may be inconsistent with the provisions of this Compact, is to be regarded, and is hereby declared to be rescinded and released —

Article Eighth — All the Expences attending the execution of this Indenture and Compact, including those of the Arbitration and surveys herein before referred to, and also those of holding the treaty now in negociation, between the United States and the said Seneca nation except so far as may be provided for, by the United States, shall be advanced and paid by the said Ogden and Fellows —

Article Ninth — The parties to this Compact mutually agree to solicit the influence of the Government of the United States to protect such of the lands of the Seneca Indians within the State of New York, as may from time to time remain in their possession from all taxes and assessments for roads, highways, or any other purpose, until such lands shall be sold and conveyed by the said Indians and the possession thereof shall have been relinquished by them.

In Witness whereof the parties to these presents have hereunto, and to three other instruments of the same tenor and date, one to remain with the United

States, one to remain with the State of Massachusetts One to remain with the Seneca nation of Indians, and One to remain with the said Thomas Ludlow Ogden and Joseph Fellows, interchangeably set their hands and seals the day & year first above written.

T. L. Ogden — Jos. Fellows

Marks

Ten wan neus or X
Governor Black Snake
Dao ne sho gah or X
Little Johnson
Joh nesh ha dih or
James Stevenson X
Ho wah tan oh goh or
John Pierce X
Da gon on de or
William Parker X

Saml. Gordon

Dennis Halftown
Han sa nea nes
or White Seneca X
Gah nang ga eot
Young Chief X

Thomas Jimison
Ah yoh gau ch
or Tall Peter X

John Kennedy
Tit ho gah
or William Jones X
Saul Logan
Gau geh guh doh
or George Jameson X

Jos. Stevenson
Blue Eyes or X
Han neh hoy soh
Jabez Stevenson
Ne ge gos a or
Samuel Wilson X
Jo on da goh
or John Simon X

William Forsyth
Ho no yea os
or Jacob Bennett X

George Turkey
Daniel Two Lynx
Goat hau oh
or Billy Shanks X

James Pierce
Ge ut twa geh
or Robert Watt X

Thompson S. Harris.
Sah go en toh
or Morris Halftown X

Seneca White

Marks.

James Shongo X
or Gorkeudew

James Spring
Ti ot tah co
or Adam Dostadu X

Maris B. Pieres
Sogeoh quas
or John Tall Chief X

Joseph Elevator

Jonah Armstrong X

Joseph Silvernails
Dao as sah aw
or
Jo Hemlock X

George Fop
Gano Sawge
or Peter Johnson X

Hoh soh doh
or Jim Jonas X
Doh no se da
or Jacob Shongo X

John Kennedy X

Abram John X

Job Pierce X

Sau da ne
or George Deer X

Sa na wau
or John Cook X

Isaac Halftown X

David Snow X

John Buck X

George Killbuck X

George Dennis
Gau ne
or John Dickey X

George Big Bear X

Sealed and delivered - the word forgery in the third article been obliterated - words and allegory in the seventh article being interlined - in the presence of

J. Dixon Cannon in the last interview of the Newspaper

Orsing Ferris

Orlando Allen

Asher Wright

C. H. Marshall

Elam R. Lewis

Cortland B. Stebbins

Joseph S. Fellows

Having as Superintendent on the part of the Commonwealth of Massachusetts attended the Negotiation of a treaty or Contract between Thomas Leavitt Ogden & Joseph Fellows of the one part and the Chiefs and headmen of the Seneca nation of Indians of the other part held at Buffalo Creek in the State of New York and concluded this twenty sixth day of May in the Year 1842, I do hereby certify that the foregoing Instrument of writing after being fully explained to the said Chiefs & headmen convened in Council was voluntarily agreed to, and signed and executed by them in my presence. And I hereby approve the said Instrument, and all the matters therein contained

Samuel Hoar,

I have this day attended a treaty with the Seneca nation of Indians held at Buffalo creek in the State of New York on the twentieth day of May in the year of our Lord one thousand

eight hundred & forty two, when the within & preceding instrument was duly executed in my presence, between Thomas Ludlow Ogden & Joseph Fellows of the one part & the Chiefs & Headmen of the said nation of the other part, the same having been fairly understood & explained to them. And I do hereby certify and declare my full approbation thereof.

Ambrose Spencer
Commissioner of the United States

ARTICLES OF TREATY: BUFFALO CREEK. BUFFALO AND ERIE COUNTY HISTORICAL SOCIETY, BUFFALO, N.Y., INDIANS, SENECAS.

[1842, May 20]

Articles of a Treaty made, and concluded at Buffalo Creek in the State of New York, on the twentieth day of May in the year One thousand eight hundred and forty two, Between the United States of America, acting herein by Ambrose Spencer their Commissioner thereto duly authorized, on the one part and the Chiefs, Headmen and Warriors of the Seneca Nation of Indians, duly assembled in Council on the other part.

Whereas a treaty was heretofore concluded and made between the said United States, and the Chiefs, headmen and Warriors of the several tribes of New York Indians, dated the fifteenth day of January, in the year one thousand eight hundred and thirty eight; which treaty having been afterwards amended was proclaimed by the President of the United States, on the 4th of April One thousand eight hundred and forty to have been duly ratified . . . . . .

And Whereas on the day of making this treaty and bearing even date herewith a certain Indenture was made executed and concluded by and between the said Seneca Nation of Indians, and Thomas L. Ogden and Joseph Fellows, assignees under the State of Massachusetts in the presence, and with the approbation of a Commissioner, appointed by the United States, and in the presence, and with the approbation of Samuel Hoare a Superintendent on the part of the Commonwealth of Massachusetts; which Indenture is in the words and figures following to wit:

"This Indenture made and concluded between "Thomas Ludlow Ogden, of the City of New York, and "Joseph Fellows of Geneva, in the County of Ontario, of the "one part, and the Chiefs and headmen of the Seneca "Nation of Indians on the other part at a Council "duly assembled and held at Buffalo Creek . . .

" in the State of New York on the 2[illegible] day
" of May . . . in the year One thousand eight
" hundred and forty two, in the presence of
" Samuel Hoare, . the Superintendent thereto
" authorised and appointed by and on the part
" of the Commonwealth of Massachusetts and of
" Ambrose Spencer, a Commissioner thereto duly
" appointed and authorised on the part of the
" United States.

" Whereas at a Council held at Buffalo Creek
" on the fifteenth day of January in the year one
" thousand eight hundred and thirty eight, an
" Indenture of that date was made and executed
" by and between the Parties to this agreement whereby
" the Chiefs and Headmen of the Seneca Nation of
" Indians, for the consideration of two hundred
" and two thousand dollars, did grant, bargain,
" release and confirm unto the said Thomas Ludlow
" Ogden, and Joseph Fellows, all those four several
" tracts of land, situate within the State of New York
" then and yet occupied by the said Nation, or the
" people thereof, severally described in the said Indenture
" as the Buffalo Creek Reservation, containing by
" estimation forty nine thousand nine hundred and
" twenty Acres of land, the Cattaraugus Reservation
" containing by estimation twenty one thousand six
" hundred and eighty Acres of land, the Allegany
" Reservation containing by estimation thirty thousand
" four hundred and sixty nine Acres of land, and the
" Tonnewanda Reservation containing by estimation
" twelve thousand eight hundred Acres of land, a
" duplicate of which Indenture was annexed to a
" treaty of the same date made between the United
" States of America, and the Chiefs, headmen and
" Warriors of the several tribes of New York Indians
" assembled in Council, which treaty was amended

"and proclaimed by the President of the United States
"on the fourth of April 1840. as having been duly ratified,
"as by the said Indenture, Treaty and Proclamation
"more fully appear.

" And Whereas divers questions and differences
"having arisen between the Chiefs and head-men of
"the Seneca Nation of Indians or some of them, and the
"said Thomas Ludlow Ogden and Joseph Fellows, in
"relation to the said Indenture, and the rights of the
"parties thereto and the provisions contained in the
"said Indenture being still unexecuted, the said Parties
"have mutually agreed to settle, compromise and
"finally terminate all such questions and differences on
"the terms and conditions hereinafter specified.

" Now Therefore it is hereby mutually declared and
"agreed by and between the said parties as follows.

"Article First. The said Thomas Ludlow Ogden and Joseph
"Fellows in consideration of the release and
"agreements hereinafter contained on the part
"of the said Seneca Nation do on their part
"consent, covenant and agree that they the
"said Nation (the said Indenture notwith-
"=standing) shall and may continue in the
"occupation and enjoyment of the whole of
"the said two several tracts of land called the
"Cattaraugus Reservation and the Allegany
"Reservation with the same right and title
"in all things as they had and possessed
"therein immediately before the date of the
"said Indenture, saving and reserving to the
"said Thomas Ludlow Ogden and Joseph Fellows
"the right of pre-emption, and all other the right
"and title which they then had or held in or
"to the said Tracts of land.

"Article Second. The Chiefs and Headmen of the Seneca Nation
"of Indians in consideration of the foregoing

"and of the agreement next hereinafter contained
"do on their part grant, release and confirm unto
"the said Thomas Ludlow Ogden and Joseph Fellows
"and to their heirs and assigns, in joint-tenancy,
"the whole of the said two tracts of land severally
"called the Buffalo Creek Reservation and the
"Tonnewanta Reservation, and all the right and
"interest thereon of the said Nation.

"Article Third It is mutually agreed between the Parties
"hereto that in lieu of the sum expressed in the
"said Indenture as the consideration of the sale
"and release of the said four tracts of land
"there shall be paid to the said Nation a just
"consideration sum for the release of the two
"tracts hereby confirmed to the said Ogden
"and Fellows to be estimated and ascertained
"as follows. The present value of the Indian
"~~[illegible]~~ title to the whole of the said four tracts
"of land including the improvements thereon shall
"for all the purposes of this present Compact be
"deemed and taken to be two hundred and two
"thousand dollars of which sum One hundred
"thousand dollars shall be deemed to be the
"value of such title in and to all the lands
"within the said four tracts exclusive of the
"Improvements thereon, and One hundred and
"two thousand dollars to be the value of all
"the Improvements within the said four tracts
"and of the said sum of One hundred thousand
"dollars the said Ogden and Fellows shall pay
"to the Seneca Nation such proportion as the
"value of all the lands within the said two
"tracts called the Buffalo Creek and Tonnewanda
"Reservations, shall bear to the value of all the
"lands within all the said four tracts, - and of
"the said sum of One hundred and two thousand

"Dollars, the said Ogden and Fellows shall pay such proportion
"as the value of the improvements on the same two tracts shall
"bear, to the value of the improvements on all the said four
"tracts.

"Article Fourth. The amount of the Consideration monies to
"be paid, in pursuance of the last preceding Article shall be
"determined, by the judgment and award of Arbitrators, one
"of whom shall be named by the Secretary of the War department
"of the United States, and one by the said Ogden and Fellows;
"which Arbitrators, in order to such judgment and award,
"and to the performance of the other duties hereby imposed on
"them may employ suitable Surveyors to explore, examine,
"and report on the value of the said lands, and improvements,
"and also to ascertain the contents of each of the said four
"tracts, which contents shall govern the Arbitrators, as to
"quantity in determining the amount of the said Consideration
"money.

"The same Arbitrators shall also award, and
"determine, the amount to be paid to each individual
"Indian, out of the sum, which on the principles above
"stated, they shall ascertain and award to be the proportionate
"value of the improvements, on the said two tracts called the
"Buffalo Creek reservation, and the Tonnawanta reservation:
"and in case the said Arbitrators shall disagree as to any
"of the matters hereby submitted to them, they may choose an
"umpire whose decision thereon shall be final and
"conclusive. And the said Arbitrators shall make a
"report in writing of their proceedings in duplicate; such
"reports to be acknowledged, or proved, according to the laws of the
"State of New York, in order to their being recorded; one of
"such reports to be filed in the Office of the Secretary of the
"department of War, and the other three to be delivered to the
"said Thomas L. Ogden, and Joseph Fellows.

"Article Fifth. It is agreed that the possession of the two tracts
"hereby confirmed, to the said Ogden and Fellows shall be

"surrendered and delivered up to them as follows - viz
"The forest or unimproved lands on the said tracts
"within one month after the report of the said arbi-
"trators, shall be filed in the Office of the department
"of War - and the improved lands within two years
"after the said report shall have been so filed;
"provided always that the amount to be so
"ascertained and awarded, as the proportionate
"value of the said improvements, shall on the
"surrender thereof, be paid to the President of the
"United States to be distributed among the
"Owners, of the said improvements, according to
"the determination and award of the said
"Arbitrators, in this behalf, and provided further
"that the Consideration for the release and con-
"veyance of the said lands, shall at the time of
"the surrender thereof, be paid or secured to the
"Satisfaction of the said Secretary of the War
"department, the income of which is to be paid to
"the said Seneca Indians annually. But any
"Indian having improvements may surrender
"the same, and the land occupied by him and his
"family at any time prior to the expiration of the
"said two years, upon the amount awarded to
"him, for such improvements, being paid to the
"President of the United States, or any agent
"designated by him for that purpose, by the said
"Ogden and Falconer; which amount shall be
"paid over to the Indian entitled to the same
"under the direction of the War department.
"Article sixth. It is hereby agreed and declared to be
"the understanding and intent of the Parties hereto,
"that such of the said Seneca Nation, as shall
"remove from the State of New York, under the
"provisions of any treaty, made or to be made

"between the United States and the said Indians shall be
"entitled in proportion to their relative pretensions to the funds
"of the Seneca nation, and that the interest and income of
"such their share and proportion of the said funds, including
"the Consideration money to be paid to the said nation
"in pursuance of this Indenture, and of all annuities
"belonging to the said nation shall be paid to the said Indians
"so removing at their new homes, and wherever the said tracts
"called the Allegany and the Cattaraqus reservations, or
"any part thereof, shall be sold and conveyed by the owners
"remaining in the State of New York, the Indians so removing
"shall be entitled to share in the proceeds of said sales in the
"like proportion. And it is further agreed and declared that such
"Indians owning improvements in the Cattaraqus and adjoining tracts as
"may so remove from the State of New York, shall be entitled
"on such removal, and on surrendering their improvements
"to the Seneca ~~tow~~ nation, for the benefit of the nation, to
"receive the like Compensations for the same, according to
"their relative values, as in the third and fourth Articles
"of this treaty are stipulated to be paid to the owners of
"improvements in the Buffalo Creek and Tonnawanta tracts
"on surrendering their improvements; which Compensations
"may be advanced by the President of the United States out of
"any funds, in the hands of the government of the United States,
"belonging to the Seneca nation, and the value of these
"improvements shall be ascertained and reported by the Arbitrators to
"be appointed in pursuance of the fourth Article.
"Article seventh. This Indenture is to be deemed to be in lieu of,
"and as a substitute for the above recited Indenture made and
"dated the 15th day of January 1838, so far as the ~~[illegible]~~
"provisions of the two instruments may be inconsistent, or
"contradictory, and the said Indenture so far as the same
"may be inconsistent with the provisions of this Compact
"is to be regarded and is hereby declared to be rescinded and
"released.:

Doc 3, Box 1

"Article Eighth – All the expenses attending the "execution of this Indenture and compact in- "cluding those of the Arbitration and Surveys "herein referred to, and also those of holding the treaty "now in negotiation between the United States and "the said Seneca Nation, except so far as may be "provided for by the United States, shall be advanced "and paid by the said Ogden and Fellows.–

"Article ninth. The parties to this Compact "mutually agree, to solicit the influence of the "government of the United States to protect such of the "lands of the Seneca Indians, within the state of New "York, as may from time to time remain within their "possession from all taxes, and assessments for "roads highways, or any other purpose until such "lands shall be sold and conveyed by the said "Indians, and the possession thereof shall have "been relinquished by them.

"In witness whereof the Parties to these presents "have hereunto and to three other instruments of "the same tenor and date, one to remain with the "United States, one to remain with the State of "Massachusetts, one to remain with the Seneca "nation of Indians, and one to remain with the "said Thomas Ludlow Ogden, and Joseph Fellows, "interchangeably set their hands and seals the "day and year first above written."

Therefore taking into consideration the premises, it is agreed and stipulated by and between the United States of America, and the Seneca nation ~~tribe~~ of Indians as follows to wit.

First. The United States of America consent to the several articles and stipulations contained in the last recited Indenture between the said

nation
~~tribe~~ and the said Thomas Ludlow Ogden and Joseph
Fellows above set forth:

Second. The United States further consent and agree that any number of the said Nation, who shall remove from the State of New York, under the provisions of the above mentioned treaty proclaimed as aforesaid, on the fourth day of April 1840, shall be entitled in proportion to their relative numbers to all the benefits of the said treaty.

Third. The United States of America further consent and agree, that the tenth article of said treaty proclaimed as aforesaid, on the fourth day of April 1840, be deemed and considered as modified, in conformity with the provisions of the Indenture hereinabove set forth so far, as that the United States will receive and pay the ~~[illegible]~~ sum stipulated to be paid, as the consideration money, of the improvements therein specified and will receive hold and apply the sum to be paid, or the securities to be given for the lands therein mentioned, as provided for in such Indenture. –

In testimony whereof the undersigned Ambrose Spencer Commissioner on the part of the United States of America, and the undersigned Chiefs and Headmen of the Seneca Nation of Indians, have to two parts of this treaty, one thereof to remain with the United States, and the other thereof with the Seneca Nation of Indians set their hands and affixed their seals the day and year first above mentioned. –

Ambrose Spencer

Da gon on de or
William Patterson X
Sand Gordon
Dennis Halftown
Hau sa nea nes
or White Seneca X
Sah nong ga e ot
or Young Chief X

Jim wam me us or
Governor Black Snake X
Dao nesho gah or
Little Johnson X
Ioh nesh ha dih or
James Stevenson X
Wo wah tan ah gah or
John Pierce X

Thomas Jimeson

Nah goh gau ch
or Tall Peter X

John Kennedy Jr
Tit ho gah
or William Jones X

Saul Logan
Gain geh-gueh doh
or George Jimison X

N. J. Strong
Hau neh hag soh
or Blue Eyes X

Ge eut twa geh
or Robert Hall X

Thompson J. Harris
Sah go eu toh
or Morris Halftown X

Seneca White
Gosh u aw
or James Shongo X
James Spring

Ti ot lah co
or Adam Doxtader

Maris B. Pierce
So gooh gues
or John Tall Chief X

Jobiz Stevenson
Samuel Wilson X
or Ni ge jos a

William Crouse
John Seneca X
or Io on da goh
Jacob Bennett X
or Ho no yea os

George Turkey

Daniel Fawlping
Goat hau oh
or Billy Shanks X

James Pine

Moses Stevenson

Jonah Armstrong X

Joseph Silverheels
Du o as Sah au
Jo Hemlock X

George Top
Gau Gau ge
or Peter Johnson X
Noh soh dah
or Tim Jones X

Deh ni se da
or Jacob Shongo X

Marks

John Kennedy X

Abram John X

A. L. Pier X

Saw da ne
o George Doer X

David Snow X

Ga na ioaw
o John Cook X

Isaac Hayton X

John Bark X

George Kellock X

Dogil Saw ne
George Downs X

Saw ne es
o John Dickey X

George Bigdur X

Signed sealed & delivered in the presence of us
The word "Hardy" in the third page and
the words "and Allegany" – and erased
all in the seventh page being interlined

N. Dixon Comm. on the part
of the State of N. York

Edwy. Ferris

Orlando Allen
Ira Enright
O. H. Marshall
Elam R. Sewell
Cortlandt B. Stebbins
Joseph Wilson

SOCIETY, BUFFALO, N.Y., INDIANS, SENECAS.

Seneca Treaty
May 20-1842

Copy.

To the Hon. The Secretary of War of the
United States
Report and Awards
of
Thomas C. Love and Ira Cook
Appraisers appointed by a Treaty between
Thomas L. Ogden and Joseph Fellows
and the
Seneca Nation of Indians
made
20th May 1842

Whereas, at a council held at Buffalo Creek in the State of New York on the twentieth day of May, in the year of our Lord one thousand eight hundred and forty two, an Indenture of that date was made and executed by and between Thomas L. Ogden of the City of New York and Joseph Fellows of Geneva in the county of Ontario, of the one part; and the chiefs and Head men of the Seneca Nation of Indians in Council duly assembled, in the presence of Samuel Hoard the Superintendent thereto authorized and appointed by and on the part of the Commonwealth of Massachusetts, and of Ambrose Spencer a Commissioner thereto, duly appointed and authorized on the part of the United States by which said Indenture the said parties thereto, among other things made and entered into certain releases, covenants and agreements relative to the sale and conveyance by the said Chiefs and Headmen of the Seneca Nation to the said Thomas L. Ogden and Joseph Fellows of those four several Tracts of Land situate in the State of New York, then and yet occupied by the said Nation or the People thereof and severally described in the said indenture as the Buffalo Creek Reservation, the Cattaraugus Reservation, the Allegany Reservation and the Tonawanda Reservation a portion of the third Article of which said Indenture is in these words - to wit -

"The present value of the Indian title to the whole of the said four tracts of Land including the improvements thereon shall for all the purposes of this present contract, be deemed and taken to be Two hundred and two thousand Dollars, of which sum one hundred thousand Dollars shall be deemed to be the value of such title in and to all the Lands within the said four Tracts, exclusive of the Improvements thereon, and one hundred and two thousand Dollars to be the value of all the Improvements

within the said four Tracts, and of the said sum of one hundred thousand Dollars, the said Ogden & Fellows shall pay to the Seneca Nation such proportion as the value of all the Lands within the said two tracts called the Buffalo Creek and Tonawanda Reservations shall bear to the value of all the lands within all the said four Tracts, and of the said sum of one hundred and two thousand Dollars the said Ogden and Fellows shall pay such proportion as the value of the Improvements on the same two Tracts shall bear to the value of the Improvements on all the said four Tracts. And the fourth Article of which said Indenture is in these words, Viz:

"The amount of the consideration money to be paid in pursuance of the last preceding article shall be determined by the judgement and award of Arbitrators one of whom shall be named by the Secretary of the War Department of the United States and one by the said Ogden & Fellows, which Arbitrators in order to such judgement and award and to the performance of the other duties hereby imposed on them may employ suitable surveyors to explore examine and report on the value of the said Lands and improvements and also to ascertain the contents of each of the said four Tracts, which contents shall govern the Arbitrators as to quantity in determining the amount of the said consideration money.

The same Arbitrators shall also award and determine the amount to be paid to each Individual Indian out of the sum, which on the principles above stated they shall ascertain and award to be the proportionate value of the Improvements on the said two tracts called the Buffalo Creek Reservation and the Tonawanda Reservation; and in case the said Arbitrators shall disagree as to any of the matters hereby submitted to them, they

may

"may choose an umpire whose decision thereon shall be "final and conclusive, and the said Arbitrators shall "make a Report in writing of their proceedings in Duplicate "such reports to be acknowledged or proved according to the "Laws of the State of New York, in order to their being recorded, "one of such reports to be filed in the office of the Secretary of "the Department of War, and the other thereof to be delivered "to the said Thomas L. Ogden and Joseph Fellows." Which said Indenture is recited and incorporated in a certain Treaty of the same date made between the United States of America, on the one part and the Chiefs, Head men and Warriors of the Seneca Nation of Indians, duly assembled in Council on the other part, which treaty was proclaimed by the President of the United States on the twentieth day of August, in the year of our Lord one thousand eight hundred and forty two as having been duly ratified and confirmed, as by the said Indenture, Treaty and Proclamation more fully appear.

And whereas the undersigned Thomas C. Love of the City of Buffalo, Erie County New York (late of the town of Clarence in said County) and Aru Cook of the town of Byron, Genesee County New York, have been duly named, constituted and appointed the Arbitrators contemplated by the above recited fourth article of the said Indenture, the said Thomas C. Love by the Secretary of the War Department of the United States, and the said Aru Cook, by the said Ogden & Fellows, and have performed and discharged the duties imposed upon them as such Arbitrators, so far forth as was in their power to do: Now therefore, pursuant to the provisions of the said fourth article of the said Indenture, the undersigned the Arbitrators aforesaid do hereby Report, as follows to wit — That they have this day agreed upon all the

matters in and by the said Indenture submitted to them the said Arbitrators — That they have personally and by the aid of suitable surveyors employed for that purpose thoroughly examined and explored the said Tracts of land described as the Buffalo Creek Reservation, the Cattaraugus Reservation and the Allegany Reservation and all the improvements upon each of them and have ascertained the contents of each of said three tracts of land last mentioned — That the said Tract of land described as the Buffalo Creek Reservation contains Forty nine thousand nine hundred and twenty Acres. That the Tract of land described as the Cattaraugus Reservation contains twenty one thousand seven hundred and sixty seven acres. ~~That said Tract of land described as the Allegany Reservation contains Twenty six thousand hundred and sixty seven acres~~ That said Tract of land described as the Allegany Reservation, contains Twenty seven thousand two hundred and thirty eight acres and eighty three one hundredths of an acre. That the Schedule marked "A" and entitled "A Schedule of the Improvements on the Buffalo Creek Reservation" which is signed by said Arbitrators and is annexed hereto, and made a part hereof, contains a full, true and particular description of every improvement upon said tract of land, described as the Buffalo Creek Reservation, the value of each of said improvements, the name of the individual Indian owning each of said improvements, the entire value of all the improvements owned by each individual Indian and the amount to be paid to each individual Indian for such improvements out of the sum which the undersigned Arbitrators have ascertained and awarded to be the proportionate value of the improvements on the said two Tracts called the Buffalo Creek Reservation and the Tonawanda reservation as hereinafter contained — That the Schedule marked "B" and entitled "A Schedule

of

× That the schedule marked C, and entitled "A Schedule of the Improvement, on the Allegany Reservation" which is signed by the said Arbitrators and is annexed hereto, and made a part hereof, contains a full, true and particular description of every improvement upon said Tract of land described as the Allegany Reservation, the value of each of said improvements, the name of the individual Indian owning each of said improvements and the entire value of all the Improvements owned by each individual Indian.

of the Improvements on the Cattaraugus Reservation", which is signed by the said Arbitrators and is annexed hereto, and made a part hereof, contains a full, true and particular description of every improvement upon said Tract of Land described as the Cattaraugus Reservation, the value of each of said improvements, the name of the Individual Indian owning each of said improvements and the entire value of all the improvements owned by each individual Indian. That they have determined adjudged and awarded, and they the said Arbitrators, do hereby determine, adjudge and award, that of the sum of One hundred thousand Dollars which in and by the said Fourth article of the said Indenture is deemed to be the value of the Indian Title to all the lands within the said four Tracts, exclusive of the Improvements thereon, the said Ogden and Fellows shall pay to the said Seneca Nation the sum of seventy five thousand Dollars as the proportion which the value of all the lands within the said Two tracts called the Buffalo Creek Reservation and the Tonawanda Reservation bears to the value of all the lands within all the said four Tracts. That they have determined adjudged and awarded, and they the said Arbitrators do hereby determine, adjudge and award that of the sum of One hundred and two thousand Dollars which in and by the said fourth article of the said Indenture is deemed to be the value of all the improvements within the said four Tracts the said Ogden and Fellows shall pay to the said Seneca Nation the sum of Fifty eight thousand seven hundred and sixty eighty Dollars and ninety six cents as the proportion which the value of the improvements on the said two tracts called the Buffalo Creek Reservation and the Tonawanda Reservation

bears

lease to the value of the Improvements on all the said
two Tracts. That they have determined adjudged and
awarded, and they the said Arbitrators do hereby de-
termine, adjudge and award that the amount to be
paid to each individual Indian named in the aforesaid
schedule marked A, is the sum which in the said
schedule marked A, is set opposite his or her name
as the amount to be paid to him or her for his or her
improvements, out of the said sum of Fifty eight thousand
seven hundred and sixty eight Dollars and ninety six
cents which the undersigned Arbitrators have
as aforesaid ascertained and awarded to be the
proportionate value of the improvements on the
said two Tracts called the Buffalo Creek Reservation
and the Tonawanda Reservation. That the said
Arbitrators have faithfully, and to the utmost of their
power and ability, endeavored fully to perform and
discharge the duties imposed upon them as such
Arbitrators in relation to the Tonawanda Reservation,
and the improvements thereon, but that they have
been forcibly prevented from such full performance
and discharge of their said duties by the action of that
portion of the said Seneca Nation which occupies the
said Tonawanda Reservation. That on the Twenty
second day of October last they the said Arbitrators
repaired to the said Tonawanda Reservation accom-
panied by suitable surveyors for the purpose of ex-
ploring and examining the same and the improve-
ments thereon pursuant to the provisions of the
said fourth article of the said Indenture; that having
been informed from creditable sources that that
portion of the Seneca Nation residing on the said
Tonawanda Reservation had determined not to per

mit

mit the Arbitrators to go upon that reservation and discharge their duties as such Arbitrators, they the Arbitrators called a Council of that portion of the Seneca Nation residing on that Reservation, which council assembled at the Council House on said Reservation and was composed of the Chiefs and Head men and a very large majority (and nearly all) of the said portion of the Seneca Nation residing on said Reservation that the said Arbitrators as fully as it was in their power, explained to the said Council the provisions and obligations of the aforesaid Indenture and Treaty, the rights and duties of the parties thereto and particularly of the Seneca Nation under said Treaty and Indenture, their character and duties as such Arbitrators and the object of their coming — That the said Arbitrators also used every means in their power to persuade them to permit the said Arbitrators to proceed and discharge their duties upon that reservation and to furnish the necessary information and assistance for that purpose — That the said Council with unanimous voice and action absolutely and unconditionally refused to permit the said Arbitrators to explore or examine the said Reservation or any part thereof, or to ascertain or value the improvements thereon, or any of them or to perform any act in discharge of their duties as such Arbitrators in relation to that Reservation, and directed the said Arbitrators to leave the said Reservation, which the said Arbitrators accordingly did. That the said Arbitrators forthwith reported to the Secretary of the War Department of the United States their attempt to discharge their duties as such Arbitrators forthwith reported to the Secretary in relation to the said Tonawanda Reservation and the result of such attempt as above set forth. That in

ly thereto the said Secretary of the War Department in-
ed the said Arbitrators to make a further attempt
charge their duties in relation to the said Tonawanda
ation and for that purpose to convene another coun-
that part of the said Seneca Nation residing on
Reservation and make further efforts to secure their
t to, and aid in the performance by the said Arbi-
s of their duties in relation thereto. That in pur-
ce of such instructions the said Arbitrators, on the
y seventh day of December last, again repaired to
aid Tonawanda Reservation, and again convened
ncil of that portion of the Seneca Nation residing
at Reservation, which Council forthwith assembled
Council House on said Reservation, and was
osed of the Chiefs and Headmen, and a very large
rity (and nearly all) of that part of the Seneca
on residing on the said Tonawanda Reservation
the said Arbitrators communicated to the said
ncil the said instructions so as aforesaid received
them from the Secretary of the War Department and
enforced the same with a renewed and full
anation of the provisions and obligations of the
said indenture and Treaty, the rights and duties
Seneca Nation under it - the duties of the Arbi-
rs, and the object of their coming, and the opinion
Arbitrators of the consequences to that portion
Seneca Nation residing on the Tonawanda
vation of a continued refusal on their part to permit
ischarge of their duties by such Arbitrators in relation
at Reservation and to give the necessary information
assistance for that purpose. That the said Arbi-
rs again used every means in their power to prevail
the said Council to abandon their opposition to the

discharge

discharge by the said Arbitrators of their duties in relation to said Tonawanda Reservation, and to cooperate with them in such discharge of their duties, that the said Council again with unanimous resolution absolutely refused to permit the said Arbitrators to do any act upon that Reservation in discharge of their duties in relation thereto. That the said Arbitrators then declared their intention to proceed to discharge their said duties notwithstanding the Resolution of the Council, and gave notice that they would then proceed to ascertain and value the improvements of any individual Indian on the said Reservation who would give his or her name, point out his or her improvements and give the necessary information relative to the same. That this declaration and notice by the Arbitrators produced a violent excitement in the Council and the Arbitrators were told that unless they immediately withdrew from said Reservation they would be carried by force without the bounds thereof; and thereupon, the said Arbitrators were each taken by the arm by a Chief and accompanied by him and Warriors of the said Reservation. That by the means and in the manner above set forth the said Arbitrators have been prevented from exploring or examining the said Tonawanda Reservation or the improvements thereon or any of them, therefore, they cannot determine the amount to be paid to any individual Indian out of the sum which they have as aforesaid ascertained and awarded to be the proportionate value of the Improvements on the said two Tracts called the Buffalo Creek Reservation and the Tonawanda Reservation, and that it would have been impossible for them the said Arbitrators to have performed this portion of their duties in relation to the Tonewanda Reservation without information from and the active aid and co-operation of the individual

Indians

Indians residing on that Reservation. That by the aid of previous surveys of the said Tract called the Tonawanda Reservation, of the accuracy of which the said Arbitrators entertain no doubt they have found and estimated that it contains Twelve thousand, eight hundred acres of land. ~~That having been in the manner and by the means above set forth, prevented from ascertaining by personal examination and surveys what were the improvements on the said Tract called the Tonawanda Reservation, of the accuracy of which the said Arbitrators entertain no doubt they have found and estimated that it contains Twelve thousand, eight hundred acres land.~~ That having been in the manner and by the means above set forth, prevented from ascertaining by personal examination and surveys what were the improvements on the said Tract called the Tonawanda Reservation, or the value of such improvements or any particulars in relation thereto they the said Arbitrators have, from the best information they could obtain, estimated and set down, and they do hereby estimate and set down the entire value of all the improvements on that reservation at the sum of Twenty eight thousand Dollars and do hereby award for all the improvements on said Reservation the proportionate sum of Fifteen thousand and eighteen Dollars and thirty six cents as appears in Schedule D. hereto annexed and made a part of this Report. Finally - that all the fees charges and expenses of them the said Arbitrators and of all the surveyors and other persons by them employed in the discharge of their said duties, have been paid and discharged by the said Ogden and Fellows. In witness ~~whereof~~ of all which they the said Arbitrators

have set their hands and seals hereunto in Duplicate, one of them to be filed in the office of the Secretary of the Department of War, and the other thereof, to be delivered to the said Thomas L. Ogden and Joseph Fellows. Done at the City of Buffalo, in the State of New York the Twenty sixth day of March one thousand eight hundred and forty four.

Thomas C. Love (Seal)

~~Signed~~ Sealed and delivered in the presence of
Wm. Young Jr.
Charles L. Mayer

Ira Cook (Seal)

State of New York Erie County ss: I hereby ~~certify~~ that on this 26th day of March 1844. before me came Thomas C. Love and Ira Cook with whom I am personally acquainted and whom I know to be the same persons who are described in the foregoing report and the schedules thereto annexed and who executed the same. and the said Thomas C. Love & Ira Cook duly acknowledged that they had executed the said report and schedules for the uses and purposes therein respected.

(Signed) N. K. Hall
First Judge
Erie County Court, and
Counsellor at Law in the Sup Court

1838.

An act to state certain claims of the New York Indians to lands ceded to them under the treaties of Jany 15. 1838 & 20th of May 1842 —

Whereas Articles of agreement & convention between the United States and the several tribes & bands of Indians residing in the state of New York was made & concluded at the Council house on the Buffalo Creek Reservation in Erie County State of New York on the 4th day of December in the year of our Lord 1768 by Walter R Jenie Commissioner on the part of the United States & the duly authorized representatives of said tribes & bands of Indians whose names are thereunto affixed & which agreement & convention was not ratified on the part of the U States when the resolution of congress was adopted "that hereafter no tribe or Indian Nation or tribe within the territory of the U States be acknowledged or recognized as an independent nation tribe or power with whom the U States may contract by treaty". By that "agreement & convention" the said Indian parties to wit "the Seneca (except the Tonawanda band parties to the treaty of November 5 1839) the Mondagan, the Tuscarora, the Cayuga's, the Oneida & the St Regis represented by their duly authorized delegates" did agree "to surrender & relinquish to the United States all claims, both in common as tribes & bands of Indians to the lands west of the State of Missouri & all right & claim to be removed thither for support & subsistence after such removal & also other claims against the United States under the treaty between the United States & the New York Indians concluded on the 15th day of January 1838 & the Treaty with the Seneca concluded on the 20th of May 1842 Provided that this right to the reservations at present occupied by them shall not in any wise be impaired" Now

Be it enacted by the Senate & House of Representatives in Congress assembled — That in consideration of said surrender & relinquishment on the part of said Indian tribes there shall be paid in the manner hereafter specified an amount equal to Three hundred and fifty dollars in each & every person entitled to participate in the beneficial provisions of the treaty of the 15th day of January 1838. Provided that nothing herein contained shall not be discharged the United States from the payment of any annuities payable under treaties prior to 1838, or the payment of moneys now held in trust for the benefit of any such Indians,

[illegible] Nahumot & Cayuga [illegible]

2d Sect. In order to ascertain the amount herein agreed to be paid the number of persons respectively entitled to receive said ~~amount~~ sums shall be determined in the manner following to wit – A complete registry shall be made under the direction of the Secretary of the Interior of all the Indians of the Seneca Nation parties to the treaty of the 15th day of Jany 1838 resident in the State of New York, & to these shall be added such other Indians (belonging to the said tribes ~~& bands~~ resident in the State of New York) who may be discovered ~~to have~~ if not resident upon permanent reservations or permanently connected with any other tribe, who may within one year from the passage of this act become registered as aforesaid & claim the beneficial provisions of this act – In making such registry the mixed bloods of any of the said tribes, being descendants of a paternal or maternal Indian ancestor shall be included with the tribe or band to which they belong. Upon the completion of such register an estimate shall be made upon the basis herein before stated & the amount so ascertained shall be reported to Congress for an appropriation to discharge the same.

3d Sect. When the such appropriation shall have been made the amount so appropriated shall be invested by the Secretary of the Interior in United States bonds the interest of which shall be paid annually in Coin which shall be held by the said Secretary in trust for the different tribes & bands proportionally according to the numbers of each & the interest thereon shall be paid annually to said tribes & bands & be distributed equally among the members in accordance with the register made of them herein before provided for. Provided however that of the amount to which the Senecas shall be entitled, they may at any time hereafter if they so desire, & the Secretary of the Interior shall approve the same, use an amount not to exceed 25000 Dollars to pay & release the lands of the Senecas in the State of New York of the incumbrance of the contingent or preemption right of purchase thereto, held & owned by what is known as the Ogden Land Co. or the assignees of the State of Massachusetts. Provided that if any sum of money shall be paid to said company in accordance with this provision it shall be upon the condition that the said company accept the same in full satisfaction of their contingent or preemption right and shall execute an agreement to pay the amount so retained as aforesaid to Congress for the benefit of the

4th The Secretary of the Interior shall have authority before investing the amount appropriated by Congress in United States bonds as herein before provided to set apart so much thereof for the payment of liabilities which have been incurred by the tribes or bands of Indians beneficiaries under this act as he may think proper — Such payment however are to be duly authorized by the constituted authorities among said Indians in writing & to be made in the discretion & with the approval of the Secretary of the Interior.

5th The Secretary of the Interior is authorized to expend such portion of the interest of the money appropriated by Congress & invested as herein before provided as either of said tribe of Indians beneficiaries under this act may desire for the purpose of maintaining schools or for advancing the interests of said Indians in any other manner ~~which~~ that may be deemed advisable by said Indians provided he approves of the same — Such division of accruing interest to be made in each case from the proportionate share of the investment set apart for the particular tribe or band of Indians for whose benefit such division is made —

6th The Secretary of the Interior is hereby authorized to sell & issue patents to the white persons occupying the lands which were allotted to certain New York Indians who removed to Kansas & for which certificates for 320 acres of land each were issued to them on the 1st day of September 1860 at the rate of one dollar & twenty five cents per acre. The proceeds (being $400 for each person) shall be paid to the said Indians or their legal representatives upon proper proof of their identity being made to the Secretary of the Interior within two years from the passage of this act. Provided that if such proof be not made to the satisfaction of the Secretary of the Interior within the time specified then at the expiration of that time such proceeds of sale or so much thereof as shall not have been paid under the provisions of this act shall be deposited in the treasury & become a part of the public moneys of the United States

after the satisfaction of the heirs, of R.S.? I suppose

[illegible]. The Secretary of the Interior shall appoint a commissioner to ascertain the losses which members of the tribes bands entitled to participate in the stipulations of the treaty of January 15th 1838 have sustained in consequence of being driven from their possessions in Georgia by the destruction of their property the amount found to be due for such losses with the proofs evidence and [illegible] of such losses shall be reported to Congress by [illegible] for such action.

Upon satisfactory proof being made to the Secretary of the Interior by a member of either of the tribes or bands parties to the treaties of 1835 & 1842 duly registered as herein provided that he or she emigrated to the Country west of the Mississippi in reliance upon the execution of those treaties but did not receive allotments of land or was not otherwise provided with a home the Secretary is authorized to use such portion of the proceeds of such persons under this act as may be necessary to provide land for a home for such with other tribes. Should any beneficiaries of this act making proof as aforesaid be in the judgement of the Secretary of the Interior so aged as to render their devise to their heirs to be doubtful the Secretary is authorized to withhold or at any time withdraw from investment there for a later share of such inheritance to the same to such person or persons who shall have become [illegible] by [illegible] or apply the same in such manner as in his judgement shall be most beneficial to said applicants. Such payment or application to be taken shall be a release of the government from all further responsibility of such persons or their descendants.

Sect 2d The President of the US is hereby authorized to negotiate with the said Indians residing upon the said reservation a cession to the US of the entirety portion of the said Allegheny Res. containing not more than 15000 acres of land to be laid off in a compact tract commencing at the eastern boundary of the said Allegheny Res. including the villages of Salamanca. Said cession to be approved by said Indians by a majority vote of all the male Indians on said reservation 21 years old represented at an election to be held for that purpose due notice thereof being given. The President aforesaid is hereby directed to appoint 3 commissioners whose duty it shall be to survey the above described land to be divided into farm & town lots of convenient size but farm lots not to exceed 50 acres. After ascertaining of the value of such lots by said commissioners exclusive of the improvements put thereon by settlers or rail road corporations holding as lessees under colour of title from said Indians to sell the same at public auction for not less than the appraised value to the highest bidder for cash & the US government shall execute a patent therefor to said purchaser or his assigns. Provided that any settler or rail road corporation owning the improvements thereon shall have the prior right to purchase the lot or lots occupied by them & held under color of title as aforesaid at the appraised value in case such lot or lots so purchased shall not be paid for within 90 days after notification of the appraised value of such lot or lots shall be sold to the highest bidder as aforesaid at a sum less than the said appraised value including the appraised value of the improvements thereon, & any Indian may purchase the lot upon which his improvement exists not exceeding 40 acres at the appraised value exclusive of the improvements. In case of his failure to make such purchase within 90 days the said lot or improvements thereon shall be sold to the highest bidder & the value of his improvement on any such lot shall be paid to him out of the proceeds of such sale.

Sect 3 That the duty of the ~~Indian~~ Agent shall be

Delivered.
191.

Hon. John C. Spencer
Secretary of War,

Sir,

War Department
Office Ind. Affairs June 7. 1842.

I have the honor to submit an additional estimates for the service of the Indian Department. The accounts have come in and been adjusted, and the failure of the States to pay interest on Stock will make an additional appropriation necessary, have occurred since the estimates for the year were sent in at the commencement of the present session of Congress.

I understood the Indian bill will perhaps be taken up tomorrow, I respectfully suggest that the estimate now submitted may be sent to the committee of Ways & Means of the House of Representatives as early as convenient.

Very &c.

J. M. C.

Hon.
195.
191.

John C. Spencer
Secretary of War,

Sir.

War Department.
Office Ind. Affairs. June 7th. 1842.

I have the honor to lay before you a treaty, concluded on the 20th day of May last, at Buffalo Creek, in the State of New York, between the Hon. Ambrose Spencer, the commissioner on behalf of the United States appointed by the President of the United States, "and the Chiefs, Headmen, and Warriors of the Seneca Nation of Indians, duly assembled in council," that the same may be laid before the President.

A treaty was made with the several tribes of New York Indians in January 1838, which having been amended by the Senate, was submitted to the Indians for their assent to the amendments, and proclaimed by the President in April 1840), as duly ratified.

The Seneca tribe, by far the largest and most numerous, were also the possessors of the great body of the Indian lands in Western New York. The reversionary interest was in Thomas L. Ogden and Joseph Fellows Esquires of New York, as assignees of the State of Massachusetts, and they purchased the occupant title of the Senecas, with the sanction of the United States expressed in the treaty of 1838. The conditions of the deed to the reversioners was $202,000, and in consideration of the cession of the right title and interest of the several tribes of New Indians to the lands secured to them at Green Bay, by the Menomonee Treaty of 1831, with an exception mentioned, the United States agreed to give the said tribe 1,824,000 acres of land west of the State of Missouri, and to appropriate the sum of $400,000 to be applied under the direction of the President, "to aid them in removing to their homes, and supporting themselves the first year after their removal; to encourage and assist them in education, and in

being taught to cultivate the lands, in erecting mills and other necessary houses; in purchasing domestic animals and farming utensils, and acquiring a knowledge of the domestic arts."

Out of this treaty grew questions and differences in reference to the purchase of the possessory right of the Senecas by those who owned the reversion in the lands. It was an object to quiet those discontents, and by a new agreement to place the Seneca Indians on a different footing from that assigned them by Treaty of 1838.

The treaty recently concluded and now submitted has effected the object on a principle of compromise that is believed to be entirely satisfactory to the parties interested, viz: the reversioners and the Indians, and the benevolent advisers and fast friends of the latter who were present when the treaty was made. There is the strongest assurance that the negotiation was conducted in entire singleness of purpose and integrity, and if this express assurance were wanting, it would be found in the elevated character of the Commissioner on the part of the United States, the approbation of the respectable Representatives of Massachusetts, and the presence and sanction of a deligation of Friends.

It will be perceived that of the four Seneca reservations conveyed by the treaty of 1838, two are relinquished by the reversioners to the Senecas, to be held by them by the same right and title as was vested in them prior to the treaty of 1838, and the Indians confirm to Messrs Ogden and Fillmore two of the said reservations. It is stipulated that there shall be a proportional reduction of the consideration, agreed to be paid by the reversioners under the first treaty. The Senecas are divided into two parties on the subject of emigration; such as shall elect to remove West will be entitled notwithstanding, to their proportion of the annuities; to be paid out of the Seneca fund, for the improvements they may abandon on the lands now reserved to them to the use of those who shall remain, under a future sale of the two reservations secured to their tribe to participate in the proceeds. It is not thought necessary to be more particular in a detail of the treaty stipulations.

The United States have no further interest in extinguishing the Indian title in Western New York than as they may be concerned to advance the welfare of the Indians and to cover the land by a thrifty white population, and in their having undertaken to pay a large sum of money, and to appropriate an extensive tract of country West of Missouri by the treaty of 1838, which, except as modified by the arrangement now submitted, will remain in force.

As to the first, if the whole Seneca tribe shall decline emigration the land remaining to them is much more than they can cultivate, and they will be in the receipt of large additional pecuniary means. The most of them are satisfied, they will by the late arrangement be brought into more compact bodies, and be more easily instructed and taught the arts of civilized life. The thriving city of Buffalo will be relieved of the incumbrance of an Indian population by its removal from the immediate vicinity to a more remote situation and the Indians themselves will not be exposed to the temptations that daily visits to Buffalo

are constantly presenting to them while a fertile district reaching the limits of the City will be placed under productive culture by our own Citizens. Under these circumstances it is not probable that any of the Senecas will emigrate.

Pecuniary advantage which comes to us are incident of the late arrangement would be of importance at any time, but is especially so in the present embarrassed state of the Treasury. A census taken of the New York Indians in 1845, made the whole number, (including the Oneidas at Green Bay, the Stockbridges, Munsees and Brothertowns,) 5485, and of this number the Senecas (including the Onondagas and Cayugas living on their reservations) amounted to 2633 – very nearly one half of the whole. To the Senecas and their friends living still there the United States, if the treaty of 1838 had remained unattended, must have given upwards of nine hundred thousand acres of land west, and have paid by treaty $200.000. If they all remain in New York this draft upon the Treasury will be saved, and so much more land be left for occupation by other Indian Tribes – or in proportion as a greater or less number may emigrate.

I transmit likewise a copy of the report made to you, on the 23d ultimo, by the Hon. A. Spencer, which accompanied the treaty, for the information of the President and Senate. It sets forth the conduct of the negotiation very clearly, and with his approbation and that of the Hon. Samuel Hoar on behalf of the State of Massachusetts, approved to the contract between the Seneca tribe and Messrs Ogden & Fellows, which is in part of the Treaty and was witnessed by Hon A. Dixon on the part of the State of New York, I commend the treaty in the strongest manner to the favorable action of the President and Senate, to which I respectfully repeat, that the reduction of our responsibilities is an additional inducement.

Very &c

T. H. B.

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198. Hon.
193. John C. Spencer,
Sec. of War.

War Department
Office Ind. Affairs June 8. 1842.

Sir,

I have the honor to report that, in order to meet your reference of the letter of the Hon A. L. Linn, communicating a resolution of the "Com. on Public Expenditures" of the House of Representatives, June 1st 1842, calling for "copies of letters from Col. A. G. Rains to the Hon John Bell, Sec. of War, relative to frauds on the Indians by contractors and others, not heretofore communicated" a most careful examination of the records has been made, from which it appears that no letter from Col. A. J. Rains (the individual referred to) containing such charges was received at this office during the administration of the Hon. M. Bell, or since. I transmit herewith a copy of the report, from this office of 29th March last, on a call of the committee on public Expenditures which shows what copies of papers have been heretofore furnished.

Very &c

T. H. B.

A Treaty made may 23d in the year of our Lord One thousand eight hundred and forty two Between the First and Second Christian parties of the Oneida Indians residing in the town of Lenox County of Madison and State of New York constituting party of the first part and the people of the State of New York acting by their agents the commissioners of the Land Office constituting party of the Second part Witnesseth as follows to wit:

Article 1. The above named party of the first part for and in consideration of the agreements hereinafter mentioned and contained on the part of the party of the Second part and of the receipt of the sums of money hereinafter specified to be paid at the execution and conclusion of this Treaty, do hereby grant, bargain, sell, cede and surrender to the people of the State of New York all the right, title, estate and interest of the said party of the first part in and to all that part of their reservation not heretofore released by the said party of the first part to the said party of the second part. Known and distinguished as Lots numbered One, three, four, five, seven, ten and fifteen by Nathan Burchard's map and certificates of survey, containing three hundred seventy one & thirty four hundredths acres of land (371. 34 a)

Article 2. And whereas the said ceded lands have been measured and allotted into parcels or lots of convenient and suitable dimensions for occupation as farms and the advantageous sale thereof, and the commissioners of the Land office shall cause the same to be sold with all possible dispatch in the manner prescribed for the sale of unappropriated lands of the State; and will cause a regular account of the expenses incurred in the survey and all such other expenses as may arise in the negotiation conclusion and execution of this Treaty, may be kept; and it is hereby stipulated and agreed that the people of said State will hold and retain the avails of all such sales in trust to be applied to the following purposes.

First the repayment of all advances made by the said people on account of the cession and partition of the ceded lands with interest at the rate of six per

cent per annum. Second, to the repayment of all expenses of the survey, description and partition of land which are the subject of this treaty and of all the expenses incidental to the negotiation and execution of the same.

Third to pay the residue of the avails of said ceded lands and all interest that may accrue thereon to the Chiefs, headmen and individuals included in Schedule A. whenever the party of the second part shall realize funds from the proceeds of sale to be applied in the payment of their just debts, and the balance to be distributed among the individuals of the said Emigrating party in such sums and in such manner as the said Chiefs and Headmen shall deem just and proper in order to enable the individuals to procure articles that may be necessary or convenient for them to take upon their emigration and in case the said disbursement and distribution be made by some Trustee or agent appointed by the said Commissioners of the Land office with the approbation of the said party of the first part, such agent, trustee, or trustees shall collectively receive and retain one per cent out of the moneys received and paid by them as a compensation for his or their services.

Article 4. The above described ceded lands have been surveyed and appraised by the above named Nathan Purchard and the aggregate amount concurred in by Sands Ridenbotham and Timothy Jenkins, which appraisal states the value of each Lot of said ceded lands; and also the improvements thereon separately, and when subscribed by and sworn to by the said Nathan Purchard, copies thereof shall be filed in the offices of the Secretary of State and Surveyor General.

Article 5.th The Buildings and improvements on said ceded lands have been appraised by the said Nathan Purchard and the value thereof has been estimated by him and a statement thereof shall be duly authenticated by him and copies thereof shall be filed in the offices last above mentioned, which improvements shall be paid to the individuals to whom they respectively belong if they belong to persons included in Schedule A. if the ceded lands

are sold when they so migrate, if to individuals included in Schedule B, when the party of the second part shall have realized funds from the sale of said lands; and the value of said improvements shall not be estimated in the amount herein before agreed to be paid to any party or portion of the said Oneida Indians as their proportion of the avails of the said ceded lands.

Article 6. It is hereby stipulated and agreed that those members of the 1st & 2d Christian parties of the Oneida Indians as are included in Schedule A hereby release, quit claim and forever renounce to the said Indians named in Schedule B and to those who may succeed them in their right title and interest claim and demand whatsoever in and to the said portion of land so set apart described reserved and allotted for those of the first and second Christian parties of said Indians who do not at present intend to migrate and enrolled in Schedule B as aforesaid. All the residue of the said Reservation not now nor heretofore ceded to the people of the said State, known and distinguished as Lots numbered Two, Six, eight, Nine, Eleven, Twelve, Thirteen, Fourteen, Sixteen, Seventeen, Eighteen and Nineteen as surveyed and allotted by Nathan Burchard reference is here had to the said map and Field book of the said Nathan Burchard and to be filed in the Offices of the Secretary of State and Surveyor General when copies thereof are endorsed thereon and duly authenticated by him they shall forever be deemed the metes and bounds of the lands ceded and those reserved; and those reserved shall be deemed the common property of all the individuals included in Schedule B. Provided always and it is hereby so expressly understood that the Mission Lot on Lot No. 1 containing four acres of land, and the Church and Burial Ground on Lot number two particularly described and bounded in said Field book and on said map belonging to all persons included in Schedules A and B as tenants in common and are so to continue to belong during the pleasure of the Commissioners of the Land Office and when sold the avails thereof together with the improvements thereon shall be

paid and distributed among the above described individuals entitled thereto.

Article 7. It is further agreed and stipulated that the party of the first part shall leave and surrender the lands herein before ceded on the day of sale and if they belong to persons included in Schedule A. that they shall immediately migrate and go beyond the jurisdiction of the State of New York but if they belong to individuals named in Schedule B they shall previous to the day of sale surrender and give up possession to the party of the second part. It is hereby further stipulated and agreed by and between the respective parties to this treaty that the whole number of souls enrolled on said attested list annexed to this treaty as Schedule A shall not be affected by any future variations by reason of births, deaths or otherwise from what they now appear in said Schedule mentioned

It is hereby further stipulated and agreed by and between the respective parties to this treaty that the owners of improvements that have sown crops on the ceded lands shall be and the same are authorised to have ingress egress and regress to them and to secure and harvest and carry off the same provided always and it is so understood by the parties to this Treaty that in case such crops have been appraised and returned as such in the field book of the said Burchard then these shall belong to and be the property of the purchaser and in like case all crops sown after the execution of this treaty.

And it is hereby further stipulated and agreed that Nathan Burchard Attorney for the Oneida Indians is hereby authorised and empowered to modify or change the stipulations of this treaty on the part and behalf of the said Indians or any or either of them in respect to any measure proposed or suggested by the Commissioners of the Land office.

Article 8. This treaty shall be executed in duplicate and a certified copy thereof shall be made by the Secretary

of state and transmitted to Nathan Purchard Attorney for the Oneida Indians in the first place by the chiefs head men and Warriors of the party of the first part with the advice and assistance of Nathan Purchard Attorney for the Oneida Indians and Sands Higenbothom and Timothy Jenkins Commissioners appointed on the part of the State who shall certify that the same has been carefully explained and understood by them the said Indians such execution to take effect when the same shall also be executed by the Commissioners of the Land Office of the State of New York or a majority of them and when the same shall be approved by the Governor of the State of New York to be signified by his approbation endorsed thereon.

In Testimony whereof the said chiefs and Headmen and Warriors of the party of the first part have hereunto set their hands and seals in token of their assent to this treaty of the whole Tribe of said Oneida Indians constituting party of the first part. And the Commissioners of the Land Office of the State of New York have hereto subscribed their names in behalf of the people of said State and by direction of the Governor they have caused the great seal of the State of New York to be affixed.

Martin his X mark Denny (LS) Aaron his X mark Cooper (LS) William his X mark Schuyler (LS)

Abram his X mark Webster (LS) Henry his X mark Jebinham (LS) Wm Cornelius (LS)

Abram Webster (LS) Peter his X mark Webster (LS) William his X mark Dostader (LS)

Daniel his X mark Schenendah (LS) William his X mark Charles (LS)

Peter his X mark Webster (LS) Thomas his X mark Cornelius (LS)

Daniel his X mark Charles (LS) William his X mark Summers (LS)

William his X mark Jordan (LS) Moses his X mark Charles (LS)

Jacob his X mark Schuyler (LS) Job Alias Anthony his X mark Antone (LS)

Thomas his X mark Shenendach (LS) Polly or Mary her X mark Antone

Elizabeth her X mark Abram (LS) Caty her X mark Jordan (LS)

Signed and Sealed by the Chiefs Headmen and Warriors of the Christian Parties of the Oneida Indians constituting party of the first part whose names are subscribed in our presence and we certify that the contents of the preceding Treaty were carefully explained to them and the other members of the said Indians party in full council and ~~were~~ fully understood by them. Article 2. third clause line 5th the words "or otherwise" being obliterated. Sands. Higinbotham, Timothy Jenkins. N. Burchard.

S. Young. Sec.y of State
Nathaniel Jones Surveyor General
A. C. Flagg Comptroller
} Commissioners of the Land office

Signed by the commissioners of the Land Office in the presence of Arch.d Campbell.

This Treaty is hereby approved and ratified this eighth day of June one thousand eight hundred and forty two.

William H. Seward (LS)

Schedule A.

Referred to in the above treaty consists of all those of the first and second christian parties of the Oneida Indians who intend to migrate to Green Bay or elsewhere beyond the jurisdiction of the State of New York called the "emigrating Party" and to cede their lands to the said State.

Henry Ninham
Elizabeth Ninham
Abraham Ninham
David Ninham
Caty Ninham
Elijah Ninham
} Henry Ninham Mary Johson Ninham } 8

Joseph Honeyost
Mayhiam Honeyost } 2
Elijah Honeyost } 3

Cornelius Doxtader	4
Elizabeth Doxtader	
Caty Doxtader	
Jenny Doxtader	
Mary Summer	5.
Hannah Summer	
William Summer	
John Summer	
Dolly Summer	
Elizabeth Hill	4
Sally Hill	
Peter Hill	
Cornelius Hill	
Peter Webster	3.
Mary Webster	
Abram Webster	
William Cornelius	3
Margaret Cornelius	
Mary Cornelius alias	
Mary Elm.	
	27

William Schuyler	5.
Mary Schuyler	
Caty Schuyler	
Eve Schuyler	
Rachael Schuyler	
Jacob Schuyler	6
Elizabeth Schuyler	
Lewis Schuyler	
Cornelius Schuyler	
William Schuyler	
Polly Schuyler	
Rachael Island	5.
Cornelius Island	
Susa Island	
Thomas Island	
Mary Ann Island	
Joseph Island alias	4
Joseph Onondaga	
Betsey Island	
Elizabeth Island	
Antone Island	
	50

State of New York }
Oneida County } ss. We the Chiefs and headmen of the first and second Christian parties of the Oneida Indians being duly sworn do depose and say that Schedule A. contains an accurate list of all those of the said parties of the Oneida Indians who intend to migrate this Spring beyond the jurisdiction of the State of New York

Martin x Denny
William x Schuyler
Henry x Nicham
Abram x Webster

Sworn and Subscribed before me May in the year 1842
Timothy Jenkins Com.r of Deeds.

Schedule B.

Referred to in the preceding Treaty contains an accurate list of all those of the first and second Christian parties of the Oneida Indians who hold their lands in severality the number of souls located on each lot the names and the number of the Lot called the home party

Elizabeth Cornelius
John Cornelius
William Cornelius
David Cornelius
Jacob Cornelius
Susannah Cornelius
Lucretia Cornelius
Tenants in Common & Owners of Lot No. 2 — 7

Mary Antone
Dolly Antone
William Antone
Jacob Antone
Hannah Antone
one Infant
Elizabeth Schuyler
Tenants in Common and Owners of Lot No. 6 — 7

14

Susanna Schuyler
Abram Webster
Hannah Webster
Isaac Webster
Caty Webster
Betsey Webster
One Infant
Peter Isaac
James Schuyler
William Schuyler
Peter Schuyler
Tenants in Common and Owners of Lot No. 8. — 11

Caty Jordan
David Charles
Jerusha Jordan
Elizabeth Jordan
Elias Jordan
Solomon Jordan &
one Infant
Tenants in Common and Owners of Lot No. 9 — 7

32

Martin Denny
Jacob Antone
Isaac Judah
Elizabeth La Forte
Claude La Forte
Abraham La Forte
X Joane La Forte
Peter La Forte X
One Infant — 9

Tenants in Common and owners of Lot No. 11.

Peter Webster
Jenny Webster
Mary Webster
David Webster
Thomas Webster
Hannah Webster
Mary Webster
Henry Webster
Lolly Webster — 9

Tenants in Common and owners of Lot No. 12.

Lolly Schenendach
Baptist Schenendach
Jacob Schenendach
Elizabeth Schenendach
and one Infant X
William Charles — 6

Tenants in Common and owners of Lot No. 13.

Sally Schenendach
Dolly Schenendach
Abram Schenendach
Thomas Schenendach
Elizabeth Denny X
Peter Doxtader — 6

Tenants in Common and owners of Lot No. 14.

Elizabeth Abram
Jenny Abram
Sally Charles
Elizabeth Charles
George Charles
Esther Charles X
Margaret Summers — 7
69

William T. Doxtader's Family — 69

John Powlis
Martin Denny Jr
David Powlis
Elizabeth Isaac
Baptist Elm
X Thomas Thompson
John Adams
Jenny Island
Abram Island X
Susannah Powlis — 10

Tenants in Common and owners of Lot No. 15.

Aaron Cooper
Hannah Cooper
Dolly Cooper
Margaret Cooper
Susa Cooper
Betsey Cooper
Jenny Cooper
Moses Cooper

Moses Charles
Caty Charles
Margaret Charles
Susa Charles
Mosy Charles

Elizabeth Cornelius
Daniel Cornelius
Roderic Cornelius
Jenny Cornelius

Job alias Anthony Antone
S Cornelius Antone
Thomas Antone
Mary Antone
Henry Antone X
Susa Antone — 23
102

Tenants in Common and owners of Lots No. 17 & 19.

State of New York }
Oneida County } ss:

We the Chiefs headmen and Warriors of the first and Second Christian parties being duly sworn do severally depose and say that the above Schedule marked and designated by letter B accurately states the names and numbers of the said Indians who intend to remain on their reservation and to hold their lands in severality and that the Field book and map and certificates of Survey accurately show the respective owners of the said lots annexed to their respective names and the quantity of lands to which we are respectively entitled.

Sworn and Subscribed before me May 23d 1842 } Martin x Denny
Arron x Cooper
Timothy Jenkins Alexander Webster
Ex. — Commissioner of Deeds. Peter x Webster

Examined & Compared with the Originals by Archd Campbell
Dep Sec. of State

A Treaty made May 23d in the year of our Lord one thousand eight hundred and forty two Between the Orchard Party of the Oneida Indians residing in the town of Vernon County of Oneida and State of New York constituting party of the first part and the People of the State of New York acting by their agents the Commissioners of the Land Office constituting party of the Second part Witnesseth as follows to wit:

Article 1. The above named party of the first part for and in consideration of the agreement hereinafter contained on the part of the party of the Second part and of the receipt of the sums of money hereinafter specified to be paid at the execution and conclusion of this Treaty Do hereby grant, bargain, sell, cede, and Surrender to the people of the State of New York all the right, title, estate, and interest of the said party of the first part in and to all that part of the reserved Lands not heretofore released by the said party of the first part to the said party of the Second part, Bounded and described as follows to wit:

State of New York }
Oneida County } ss:

We the Chiefs headmen and Warriors of the first and Second Christian parties being duly sworn do severally depose and say that the above Schedule marked and designated by letter B accurately states the names and numbers of the said Indians who intend to remain on their reservation and to hold their lands in severality and that the Field book and map and certificates of Survey accurately show the respective owners of the said lots annexed to their respective names and the quantity of lands to which we are respectively entitled.

Sworn and Subscribed before me at Albany 23d 1842 } Martin x Denny
Arron x Cooper
Timothy Jenkins — Commissioner of Deeds. Abram Webster
Peter x Webster

Ex.d —

Examined & Compared with the Originals by Arch.d Campbell
Dep Sec. of State

A Treaty made May 23d in the year of our Lord one thousand eight hundred and forty two Between the Orchard Party of the Oneida Indians residing in the town of Vernon County of Oneida and State of New York constituting party of the first part and the People of the State of New York acting by their agents the Commissioners of the Land Office constituting party of the Second part Witnesseth as follows to wit:

Article 1. The above named party of the first part for and in consideration of the agreement hereinafter contained on the part of the party of the Second part and of the receipt of the sums of money hereinafter specified to be paid at the execution and conclusion of this Treaty Do hereby grant, bargain, sell, cede, and Surrender to the people of the State of New York all the right, title, estate, and interest of the said party of the first part in and to all that part of the reserved Lands not heretofore released by the said party of the first part to the said party of the Second part, Bounded and described as follows to wit:

Beginning at the North East corner of Sol Number Three at a Stake marked 3. and thence runs South sixty two degrees west sixty two chains and twelve links to a stone monument numbered 3.4. thence North twenty seven degrees and forty five minutes west, eleven chains and forty five links to Stake marked 1. an apple tree North sixty nine degrees west forty five links marked 1. thence North fifty nine degrees East thirty five chains and twenty four links to Stake marked 2. 3. thence North fifty five degrees East nineteen chains and seventy six links to Stake marked 3. N.W.C a Beach South fifty one degrees west sixteen links marked 3. and thence South fifty two degrees East eighteen chains to the place of beginning Containing Seventy six 15/100. 76. 15. acres of land.

Article 2d. And whereas the said ceded lands have been measured and subdivided into parcels or lots of convenient and suitable dimensions for occupation as farms and the advantageous sale thereof, and the Commissioners of the Land Office shall cause the same to be sold with all possible despatch in the manner prescribed for the sale of unappropriated lands of the State. And will cause a regular account of the expenses of said survey and of all such other expenses incurred in the negotiation and conclusion and execution of this Treaty to be kept and it is hereby stipulated and agreed that the People of said State will hold and retain the avails of all such sales in trust to be applied to the following purposes.

First, to the repayment of all advances made by the said People on account of the cession of the said lands with interest at the rate of Six per cent per annum.

Second, to the repayment of all expenses of the survey description and partition of the Land which are the subject of this Treaty and of all the expenses in the negotiation and Execution of the same, and the payment of individual improvements thereon

Third, To pay the residue of one half of the avails of the said ceded lands arising from the sale thereof when the funds shall be paid into the Treasury, and the remainder thereof, when the party of the Second part, shall realise

the same from the purchasers of the ceded lands, so that the party of the first part shall not be paid any faster than the party of the second part shall realize funds from the sale of the ceded lots of land to the Chiefs, headmen and warriors such payment shall be made.

Artill 3d. The party of the second part shall pay unto the party of the first part after the payment of all Expenses of the survey, description and partition of the lands which are the subject of this Treaty and of all the Expenses in the negotiation and execution of the same and the payment of individuals improvements on the said Ceded lands the residue of one half of the avails of said ceded lands arising from the sale thereof, whenever the funds shall be paid into the Treasury of the State and the remainder thereof whenever the said Party of the second part shall realize funds from the purchasers or otherwise of the ceded lands; such payments are to be made to the Chiefs. Headmen and individuals belonging to Schedule A to be applied in the payment of their just debts and the balance to be distributed among the several individuals of the said Emigrating party in such sums and in such manner as the said Chiefs headman and warriors shall deem just proper in order to enable the said individuals to procure articles that may be necessary or convenient for them to take upon their emigration and to defray the expenses of such emigration.

Article 4th. The above described ceded lands have been surveyed and appraised by the above named Nathan Burchard and the aggregate amount concurred in by Sands Wegin botham and Timothy Jenkins which appraisal states the value of each lot of said ceded lands and all the improvements thereon separately and when subscribed & sworn to by the said Nathan Burchard copies thereof shall be be filed in the offices of the Secretary of State and Surveyor General.

Article 5th. The buildings and improvements on said ceded lands have been appraised by the said Nathan

Purchard and the value thereof has been estimated by him and a Statement thereof shall be duly authenticated by him and copies thereof shall be filed in the Offices last above mentioned; which improvements shall be paid to the individuals to whom they respectively belong; if they belong to persons included in Schedule A if the ceded lands are sold when they migrate, if to individuals included in Schedule B when the party of the second part shall have realized funds from the sale of said lands, and the value of said improvements shall not be estimated in the amount herein before agreed to be paid to any party or portion of the said Oneida Indians as their proportion of the avails of the said ceded lands.

Article 6th. It is hereby stipulated and agreed that such of the said Orchard Party as are named in Schedule A hereby release, quite claim and forever renounce to the said Indians named in Schedule B. and to those who may succeed them in their right, all right, title and interest, claim and demand whatsoever in and to the said portion of land to set apart, described and reserved for the said Indians who do not intend to emigrate bounded and described as follows to wit: Beginning at a stone monument placed in a gulf marked S.W.C.83. and thence runs North fifty five degrees East forty chains and forty links to a stone monument, thence South fifty two degrees East forty chains and forty links to a stake marked 3. N.W.C. a beach South fifty one degrees North sixteen links marked 3. thence South fifty five degrees West and nineteen chains and seventy six links to a stake marked 2. 3. thence South fifty nine degrees West thirty five chains and twenty four links to a stake marked 1. an apple Tree North sixty nine degrees West forty five links marked 1. and thence North twenty seven degrees and forty five minutes west thirty five chains and five links to the place of beginning Containing One hundred and ninety 70/100 acres.

Article 7th. It is further agreed and stipulated that

the said party of the first part shall leave and surrender the lands herein before ceded on the day of in the year 1842 and to migrate and go beyond the jurisdiction of this State.

And it is hereby further stipulated and agreed by and between the respective parties to this Treaty that the whole number of souls enrolled on said attested list annexed to this Treaty as schedule A. shall not be affected by any future variations by reason of deaths, births or otherwise from what they now appear on the last mentioned Schedule.

And it is hereby further stipulated and agreed that the owners of improvements that have sown crops on the ceded lands shall be and the same are authorised to have and harvest all crops that have not been appraised if sown previous to the execution of this Treaty.

It is further stipulated and agreed that Nathan Burchard Attorney for the Oneida Indians is hereby authorised and empowered to modify or change the stipulations of this treaty on the part and behalf of said Indians or any or either of them in respect to any measure proposed by or suggested by the Commissioners of the Land Office

And it is further stipulated and agreed that the Burial ground on Lot No. 3 is reserved and not ceded by this Treaty any Cause to the Contrary notwithstanding.

Article 8th. This Treaty shall be executed in duplicate or a certified copy thereof shall be made by the Secretary of State and transmitted to Nathan Burchard Attorney for the Oneida Indians for the use of said Indians in the first instance by the Chiefs, Headmen and warriors of the party of the first part with the advice and assistance of Nathan Nathan Burchard Attorney for said Indians and Sands Higinbotham and Timothy Jenkins Commissioners appointed on the part of the State who shall certify that the same has been carefully explained and understood by them the said Indians, such execution to take effect when the same shall also be executed by the Commissioners of the Land Office of the State of New York or a majority of them and when the same shall be approved by the governor of the State of New York to be signified by his

approbation endorsed thereon. In Testimony whereof the said chiefs and Headmen and Warriors of the party of the first part have hereunto set their hands and seals in token of their assent to this treaty of the whole tribe of said Oneida Indians constituting party of the first part

And the Commissioners of the Land office of the State of New York have hereto subscribed their names in behalf of the People of said State and by direction of the Governor they have caused the great Seal of the State of New York to be hereunto affixed. This done on the day and year above mentioned

Moses his X mark Cornelius (LS)		William his X mark Cornelius (LS)	
William his X mark Johnson (LS)		David his X mark Johnson (LS)	
Moses his X mark Day (LS)		Henry his X mark Christian (LS)	
Anthony his X mark Abram (LS)		Henry his X mark Abram (LS)	
David his X mark John (LS)		James his X mark Christian (LS)	

Signed and Sealed by the Chiefs and Headmen and Warriors of the Orchard Party of the Oneida Indians constituting party of the first part whose names are subscribed in our presence and we certify that the contents of the preceeding treaty were carefully explained to them and the other members of the said Indians parties in full Council and ~~were~~ fully understood by them and unanimously signed by them - Article 2. Line 26 the words or otherwise being obliterated. Nathan Burchard attorney for the Oneida Indians. Sand Higinbotham, Timothy Jenkins, Nathan Burchard.

S. Young Sec. of State
Nathaniel Jones Surveyor Genl.
N. C. Flagg Comptroller
Comm. of the Land Office
Signed by the Commissioners of the Land Office in the presence of Arch Campbell.

This Treaty is hereby approved and ratified this eighth day of June One thousand eight hundred and forty two

William H. Seward grand (LS) seal

Examined & Compared with the original by Arch.d Campbell Deputy Secy of State

Schedule A.

Referred to in the above treaty consists of an alleged list of all those of the Orchard Party of the Oneida Indians who intend to migrate to the township of Delaware, London District in the British Province of Upper Canada or elsewhere without the jurisdiction of the State of New York called the Emigrating party.

Mary Dan	1
Electa Antone Henry Antone	2
William Williams John Williams Jonathan Williams Joseph Williams Dolly Williams One Infant	6
David John Mary Williams	2
	11

Anthony Abram Esther Abram Elizabeth Abram Hannah Abram Henry Abram	11 5
	16 Souls

State of New York
Oneida County } ss.

We the undersigned Chiefs, Headmen and Warriors of the Orchard Party of the Oneida Indians being duly sworn do depose and say that the above Schedule A is in all respects true and correct and accurately shews the names and number of the said Orchard Party who

intend to migrate.

Sworn and Subscribed before me May 23. in the year 1842.

Timothy Jenkins
Com of Deeds.

William his X mark Cornelius

Moses his X mark Cornelius

Henry his X mark Christian

Schedule B.

Referred to in the foregoing Treaty consists of a List of all the Orchard party of the Oneida Indians who do not at present intend to cede their lands but to remain on the same and their settlement in the town of Vernon County of Oneida and State of New York commonly called the Home party of the Orchard Indians.

William Cornelius		
Electa Cornelius		
Moses Cornelius		
Elizabeth Cornelius		
Mary Cornelius		
Nelly Cornelius		
Susannah Cornelius		
Dolly Cornelius		
Jane Cornelius		
Dolly Cornelius		
Baptiste Cornelius		
Elizabeth Cornelius		
Jenny Cornelius		
Nicholas Cornelius		
Mary Cornelius		
Henry Cornelius		
Solomon Schenendack	17.	
James Christian		
Mary Christian	2	
	19	

		19
Margaret John		5
Dolly John		
Thomas John		
Caty John		
Eve John		
Moses Day		
Susa Day		
Margaret Day		
Sally Day		
an Infant		5
James Johnson		
Margaret Johnson		
Hannah Johnson		
Peter Johnson		
Jacob Johnson		5.
Elizabeth Johnson		
Hannah Johnson		
Jenny Johnson		
Caty Johnson		5
Sally Johnson		
William Johnson	Chief	1
		40 souls

to to in the course of two or three days.

I see no objection to the approval of the deeds and submit them to you with the recommendation that they be laid before the President for that purpose.

Very &c.
J. M. C.

Below 205.

Hon.
John C. Spencer
Secretary of War.

War Department
Office Indian Affairs 27th June 1842.

Sir,

A memorial addressed to the President of the United States by the head chiefs of the Tonawanda reservation in Western New York, under date 1st instant, has been referred to this office. I replied to these chiefs on the 25th instant.

As the Treaty, of the 20th May last, concluded with the Seneca tribe, of which the Indians on the above reservation are a component part, is now before the Senate, it appears to me proper that the memorial, with the answer to it, should be laid before that body.

I received likewise on 24. instant a communication from the Sub-Agent for the New York Indians, stating that, they are committing extensive depredations on the lands that will fall to Messrs. Ogden & Fellows, which until the Treaty is ratified there are, perhaps, no adequate means to arrest.

Of these several papers I send copies, and respectfully submit for your consideration and that of the President whether they ought not to be transmitted to the Senate.

Very &c
J. M. C.

State of New York
Oneida County } ss.

We the undersigned Chiefs, headmen of the Orchard party of the Oneida Indians being duly sworn do depose & say that the above Schedule B is in all respects true and correct and accurately shows the names and number of the Orchard party who intend to remain on their reservation and not cede their lands

David his x mark Johnson

William his x mark Cornelius

Moses his x mark Cornelius

William his x mark Cornelius

William his x mark Johnson

Sworn and Subscribed before me May 23d in the year 1842
Timothy Jenkins
Com of Deeds.

Examined & compared with the originals by
Frch. Campbell
Dep. Sec. of State

A Treaty Between the Orchard Party of the Oneida Indians residing in the town of Vernon County of Oneida and State of New York constituting party of the first part and the people of the State of New York by their lawful agents the Commissioners of the Land Office being party of the Second part Witnesseth as follows to wit:

Article 1. The above named party of the first part for and in consideration of the agreement hereinafter contained on the part of the party of the Second part and the receipt of the sum of money hereinafter mentioned to be paid Do hereby grant, bargain, sell, cede and surrender to the people of the State of New York all the right, title, estate and interest in and to all that part of their reservation known and distinguished as Lots Number One, two and Four containing in the aggregate One hundred fourteen 24/100 acres in Nathan Burchards Survey and located in the town of Vernon county of

Oneida and State aforesaid, and the return of said survey, a map of the Lots so surveyed and a field book copies of which are hereafter to be filed in the Offices of the Surveyor general and the Secretary shall be deemed the description metes and bounds of the lands so ceded and surrendered to the people.

Article 2. The commissioners of the Land Office will cause the lands hereby ceded and subdivided to be sold as rapidly as will secure the best price for the same; and will cause a regular account of the expenses of such survey and of the expenses incurred in the negotiation, conclusion, and execution of this treaty to be kept, and it is hereby stipulated and agreed the people of the said State will hold and return the avails of all such sales in trust to be applied to the following purposes.

First - To the repayment of all advances made by the said people on account of the cession of said lands with interest thereon at the rate of six per cent per annum.

Second - To the repayment of all expenses in the survey, description and partition of the lands which are the subject of this Treaty, and of all the expenses in the negotiation

Third - To pay the residue of the said avails with all the interest thereon to the Chiefs, Headmen and individuals of the said Emigrating party whenever the people of said State shall receive such avails from the purchasers thereof.

Article 3. The said party of the first part do hereby bargain and agree with the said party of the second part to leave and surrender the lands ceded by the said Treaty immediately after the sale thereof and those enrolled on the schedule annexed to the Treaty and marked B. shall emigrate and leave the State of New York immediately on the receipt of the first payment.

Article 4 It is hereby stipulated and agreed that such of the Orchard Party as are enrolled on the schedule list marked B do hereby release quit claim and forever

renounce to the said Indians who are enrolled on the attested list marked A. and to those who may succeed them in their right all right, title, claim and demand whatsoever in and to the remainder of said reserved lands known and distinguished on the map Field book of Nathan Burchard as Lot Number three, containing Seventy six 16/100 acres of land which lands so reserved for such of the Oneida Party as intending to remain in this State is to be had, held enjoyed and occupied by them collectively in the same manner and with the same right title and interest therein as appertained to them the party so remaining before the execution of this treaty.

Article 5. The improvements upon all parts of the lands ceded by this treaty having been appraised and the value thereof estimated by Nathan Burchard, in which appraisement the parties of the first part do all concur. And the said Nathan Burchard shall deliver such appraisement together with the returns of said survey and the maps of the lots so surveyed and a field book thereof sworn and subscribed by him copies thereof to the Surveyor General and the Secretary of State which appraised value shall be paid to each and every individual respectively to which the appraised value of said improvements belong when they shall finally migrate out of this State, and the value of said improvements shall not be estimated in the amounts herein before agreed to be paid to any party or portion of the said Oneida Indians as their portion of the avails of the said ceded lands.

Article 6. It is hereby further stipulated and agreed by and between the respective parties to this treaty that the whole number of souls enrolled on the attested list annexed hereto included in document marked B. shall not be affected by any further variations by reason of births, deaths, or otherwise from what they now appear on the said attested list.

Article 7. It is hereby further stipulated and agreed that Nathan Burchard, attorney for the Oneida Indians or Jacob Cornelius one of the Chiefs of the Oneida

Party residing at Green Bay in the Territory of Wisconsin be and both or either of them are hereby authorised and empowered to alter or modify any article in this treaty, provided the same be suggested by the Commissioners of the Land office on the execution of this State and such alterations or modification shall forever be binding and obligatory on the respective parties to this treaty.

Article 8. This treaty shall be executed in duplicate or a certificate copy thereof shall be made by the Secretary of the State if negotiated by the party of the first part with the advise and assistance of Nathan Burchard Attorney as aforesaid and Jacob Cornelius, Chief of the Orchard Party as aforesaid, who will certify that the same has been carefully explained and understood by them, the said Indians, such execution to take effect when the same shall also be executed by the Commissioners of the Land Office of the State of New York, or a majority of them and when the same shall be approved by the governor of the said State to be signified by his approbation endorsed thereon.

In Testimony whereof the said chiefs and Headmen and warriors of the party of the first part have hereunto set their hands and seals in token of their consent to this treaty and the approbation of the whole tribe.

And the Commissioners of the Land office have also hereto subscribed their names and in behalf of the People of said State and by direction of the governor they have caused the great seal of the State of New York to be hereto affixed. This done and executed in the year of our Lord one thousand eight hundred and forty two and on the twenty fifth day of June in that year.

William his X mark Cornelius Chief — Henry his X mark Christian

Moses his X mark Cornelius — James his X mark Christian

William his X mark Johnson — Mary her X mark Christian

Susannah her x mark Cornelius

Moses his x mark Day

David his x mark Johnson

Polly her x mark Cornelius

Baptiste his x mark Cornelius

Abram his x mark Antone

Henry his x mark Antone

Signed, Sealed by the Chiefs and Warriors of the Orchard Party of the Oneida Indians whose names are subscribed in our presence and we Certify that the Contents of this treaty were carefully explained to them and the other members of the said party in full Council and where fully understood by them June 25. 1842 Nathan Burchard, Norton G. Merrill, Emmon Downer.

S. Young Secretary of State
Geo. P. Barker Atty Genl.
Nathaniel Jones Surveyor Genl
A. C. Flagg Comptroller
} Commissioners of the Land Office

Signed by the Commissioners of the Land Office in the presence of
Arch.d Campbell.

The foregoing Treaty is approved of and ratified this first day of July in the year of our Lord one thousand eight hundred and forty two and the great Seal of the State is hereunto affixed.

Ex.d —

William H. Seward (Ls)

~~Examined and Compared with the Original by~~
~~Arch.d Campbell~~
~~Dep. Sec. of State~~

Document A

Referred to in the foregoing treaty contains an accurate list of all those of the Orchard Party who intend to remain on Lot number three named in said Treaty known as the Home party of the Orchard Indians. the names and members of the home party.

William Johnson Chief			
Elizabeth Johnson			
Hannah Johnson			11 souls
Jenny Johnson		Moses Day	
Caty Johnson		Susan Day	
David Johnson	6	Margaret Day	
		Sally Day	
Margaret John		Baptist Day	5
Dolly John			Amount 16 Souls
Thomas John			
Caty John			
Eve John	5		
	11 souls		

Oneida County ss:

We hereby certify that documents A and B contain an accurate list of all those of the emigrating and home party of the Orchard Party of the Oneida Indians and that the same were made by us in full Council with the consent and approbation of the whole of the Orchard Party of the Oneida Indians.

Moses his x mark Day.

Moses his x mark Cornelius

Henry his x mark Cornelius

William his x mark Cornelius Chief

William his x mark Johnson

David his x mark Johnson

In presence of us Nathan Parchard
Jacob Cornelius
Joseph Cornelius

Document B.

Referred to in the above treaty contains an accurate list of all those indians who are of the Orchard Party who intend to emigrate pursuant to the above treaty.

The names of the Emigrants.

William	Cornelius	
Electa	Cornelius	
Moses	Cornelius	
Elizabeth	Cornelius	
Mary	Cornelius	
Susannah	Cornelius	
Solomon	Cornelius	
Polly	Cornelius	
Vocine	Cornelius	
Nelly	Cornelius	10 Souls
Mary	Cornelius	
Nancy	Cornelius	
James	Cornelius	
Mary Ann	Cornelius	
Margaret	Johnson	
Hannah	Johnson	
Peter	Johnson	
Jacob	Johnson	8 Souls
Dolly	Cornelius	
Baptist	Cornelius	
Elizabeth	Cornelius	
Jenny	Cornelius	
Nicholas	Cornelius	
John	Cornelius	6
		24 Souls

Examined and compared with the originals by

Arch.d Campbell
Dep. Sec of State

Document A

Referred to in the foregoing treaty contains an accurate list of all those of the Orchard Party who intend to remain on Lot number three named in said Treaty known as the Home party of the Orchard Indians. the names and members of the home party.

William Johnson Chief			
Elizabeth Johnson			
Hannah Johnson			11 Souls
Jenny Johnson		Moses Day	
Caty Johnson		Susan Day	
David Johnson	6	Margret Day	
		Sally Day	
Margaret John		Baptist Day	5
Dolly John			Amount 16 Souls
Thomas John			
Caty John			
Eve John	5		
	11 Souls		

Oneida County ss:

We hereby certify that documents A and B contain an accurate list of all those of the emigrating and home party of the Orchard Party of the Oneida Indians and that the same were made by us in full Council with the consent and approbation of the whole of the Orchard Party of the Oneida Indians.

Moses his x mark Day.

Moses his x mark Cornelius

Henry his x mark Cornelius

William his x mark Cornelius Chief

William his x mark Johnson

David his x mark Johnson

In presence of us Nathan Burchard
Jacob Cornelius
Joseph Cornelius

Document B.

Referred to in the above treaty contains an accurate list of all those indians who are of the Orchard Party who intend to emigrate pursuant to the above treaty.

The names of the Emigrants.

William	Comelins	
Eliela	Comeling	
Moses	Comeling	
Elizabeth	Comeling	
Mary	Comeling	
Susannah	Comeling	
Solomon	Comeling	
Polly	Comeling	
Noene	Comeling	
Nelly	Comeling	10 Souls
Mary	Comeling	
Nancy	Comeling	
James	Comeling	
Mary Ann	Comeling	
Margaret	Johnson	
Hannah	Johnson	
Peter	Johnson	
Jacob	Johnson	8 Souls
Dolly	Comeling	
Baptist	Comeling	
Elizabeth	Comeling	
Jenny	Comeling	
Nicholas	Comeling	
John	Comeling	6
		24 Souls

Examined and compared with the original by

Arch.d Campbell
Dep. Sec of State

371. Hon. John C. Spencer,
368. Secretary of War.

War Department
Office Ind. Affairs, Feby. 10th. 1843

Sir,

As you are aware accounts have been presented for Smiths work done for the New-York Indians, on orders from James Stryker the late Sub-Agent, which there are no means of paying.

The treaty, of 11. Nov. 1794, with the Six Nations of New York, art. 6. secures to them and the Indians of the other nations residing among and united with them an annuity of 11.500 dollars, "which shall be expended yearly, forever, in purchasing clothing, domestic animals, implements of husbandry, and other utensils suitable to their circumstances, and in compensating useful artificers, who shall reside with or near them, and be employed for their benefit. The immediate application of the whole annual allowance now stipulated, to be made by the Superintendent, appointed by the President, for the affairs of the Six Nations, and their Indian friends aforesaid."

The late Sub-Agent under the power conferred by this treaty gave orders for Blacksmiths work (exceeding the money he applied to the payment of the accounts so made) to the amount of $3.873.07 which there are no means of paying, except as will be suggested, these accounts were made in the year 1835. 6. 7. 8. 9. & 40.

There is a suit pending against Judge Stryker and his sureties for a balance which appears on the settlement of his accounts, but which it is said he contests.

Up to the year and inclusive of 1832, appropriations for Smiths were general under one head, and in the year named the appropriation ran thus "For the pay of Gunsmiths and Blacksmiths, and their assistants, employed within the several Superintendencies, under the provisions and the orders of the War Department" &c. Under the general power contained in the last

clause, the Department occasionally, when thought necessary, ordered smiths establishments, I am informed, where there was no treaty provisions requiring it, thus bestowing a boon upon needy Indians. Of this fund there remained a balance of $27,508 $\frac{66}{100}$, which had been carried to the surplus fund on 31st. December 1838, but was re appropriated by act of 3. March 1839, in these words, "For Blacksmiths Establishments" &c.

It has been suggested that perhaps this general fund, of which there is undrawn more than sufficient to meet the accounts for smiths work mentioned within, might be applied to liquidate the demand referred to, but regarding this as questionable I think it safer to request that a declaration be inserted in the appropriation bill for the Indian service that the said accounts may be lawfully paid out of the funds so appropriated and remaining on hand, which is respectfully submitted for your consideration and transmission to the proper committee.

Very &c.

T. H. B.

3744. Hon. John C. Spencer

War Department

[illegible] 1843

Know all men by these presents that we the undersigned Indians of the Seneca and other Nations, for the consideration of over one dollar to each of us paid, the receipt whereof we do hereby severally acknowledge, have, and each of us hath released and discharged, and by these presents do, and each of us doth, for ourselves and for himself, release and forever discharge, Herman B. Potter, James Stryker Orlando Allen and Henry P. Wileox — Thomas L. Ogden & Joseph Fellows, and each and every other person, interested in the preemptive company, called the Ogden Company, of which the said Ogden & Fellows are trustees, their and each of their heirs, executors and administrators, of, and from all and all manner of action and actions, cause and causes of action, suits and sums of money, contracts, covenants, agreements, promises, claims, damages & demands whatsoever, in law or equity (except as herein below mentioned) which, as against the persons just named and referred to, or any or either of them, and their and each of their heirs, executors and administrators, we or either or any of us, ever had, now have, or hereafter can, shall or may have, in our individual capacity or otherwise, for services, compensations or gratuities rendered by us severally or individually, or promised to us respectively or otherwise touching, concerning or in any wise relating to the Treaty heretofore or lately made between the United States and the New York Indians, embracing a sale & conveyance of the Seneca Reservations to the said Trustees — with the exception only, as against the said Trustees above named and the said Ogden Company of a certain claim in favor of some of the undersigned, arising out of or by reason of a certain Schedule, called "Schedule D." annexed to the aforesaid Treaty. In witness whereof we have hereunto severally & by our Attorney: thereunto lawfully authorised set our hands and seals this 28th day of October in the year of our Lord one thousand eight hundred and forty three —

Seb. Pierce
by his atty Wm. Wilcox his X mark

Blue Eyes
by his atty N. T. Strong

David Tall Chief
by his atty Wm. Wilcox his X mark

George Bennett
by his atty N. T. Strong

one thousand eight hundred and forty three

Job Pierce
by his Atty White his ✗ mark Seneca

David Tall Chief
by his Atty White his ✗ mark Seneca

John Seneca
by his Atty White his ✗ mark Seneca

Saml Wilson
by his Atty White his ✗ mark Seneca

John Bennett
by his Atty White his ✗ mark Seneca

Tommy Jimmy
by his Atty White his ✗ mark Seneca

Chute or Jimmy Young do
by White his ✗ mark Seneca

Jacob G. Seneca
by his Atty White his ✗ mark Seneca

Reuben Jackson
by his Atty White his ✗ mark Seneca

John Jimmy
by his Atty White his ✗ mark Seneca

Jesse Jimmy
by his Atty White his ✗ mark Seneca

John Smith
by his Atty White his ✗ mark Seneca

White his ✗ mark Seneca

George his ✗ mark Seneca

Blue Eyes
By his atty N. P. Strong

George Bennett
by his atty N. P. Strong

Bastain Strong
By his atty N. P. Strong

Morris Halftown
By his atty N. P. Strong

Charles Greybeard
By his atty N. P. Strong

William Johnson
By his atty N. P. Strong

George Big Deer
By his atty N. P. Strong

Nicholas Jimerson
By his atty N. P. Strong

John Hatchetown
By his atty N. P. Strong

Samuel Gordon
By his atty N. P. Strong

Billy Shanks
By his atty N. P. Strong

Long John
By his atty N. P. Strong

Jacob Jimerson
By his atty N. P. Strong

Chas. B. Pierce
By his atty N. P. Strong

George Fox
By his atty N. P. Strong

Jim Jones
By his atty N. P. Strong

George Fox for the State of Capt Pollard dec'd by his atty N. P. Strong

Little Seneca
by his Atty White his ✗ mark Seneca

William Tall Chief
by White his ✗ mark Seneca his Atty

Tall Peter
by his Atty White his ✗ mark Seneca

I witness the execution & delivery of this instrument
T. A. Howard

Simon Sulem
b
A. B. Pollard

Pilum

Know all men by these presents, that I, Nathaniel P. Strong of Seneca Chief Indian on the Cattaraugus Reservation in the County of Erie State of New York, for and in consideration of One Dollar to me in hand paid (the receipt whereof is hereby confessed) by Hiram B. Potter, James Stephen Orlando Allen & Henry P. Willcox, ~~[illegible]~~ and discharged and by these presents do release and forever discharge the said Potter, Stephen, Allen & Willcox and each of them and their and each of their heirs executors and administrators, of and from all manner of actions and causes of action, sums & sums of money, contracts covenants, agreements, promises, claims, damages or demands & rights in law or equity which I now have, or hereafter can, shall, or may have against them or either of them for services, consultations or negotiations heretofore rendered by me or promised to be by them or either of them, touching, concerning or in any wise relating to the Treaty heretofore lately made, between the United States and the New York Indians embracing a Sale and Conveyance of the Seneca Reservation so called, to the Trustees of the Ogden Company.

In witness whereof I have hereunto set my hand and seal this 28th day of October A.D. One thousand eight Hundred & forty three,

Signed Sealed
and the signature of
A. H. Howard

N. P. Strong

Know all men by these presents
that we the undersigned Indians of the Seneca
& other Nations, for the consideration of one
dollar to each of us paid, the receipt whereof
we do hereby severally acknowledge, have and
each of us hath released and discharged and by
these presents do, and each of us doth for ourselves
and for himself, release and forever discharge
Herman B. Potter, James Stryker, Orlando
Allen & Loring P. Willcox - Thomas L. Ogden &
Joseph Fellows, and each and every other
person, interested in the Preemptive Company,
called the Ogden Company, of which the
said Ogden & Fellows are trustees, their & each
of their heirs, executors and administrators, of and
from all and all manner of action and actions,
cause & causes of action, sum and sums of money,
contracts, covenants, agreements, promises, claims,
damages and demands ~~which~~ whatsoever, in
law or equity (except as hereinafter mentioned)
which, as against the persons ~~just~~ named and referred
to, or any or either of them, and their & each
of their heirs, executors and administrators, we or
either or any of us, ever had, now have or here-
after can, shall or may have, in our individual
capacity or otherwise for services, compensations
or gratuities rendered by us severally or individually,
or promised to us respectively or otherwise, touching
concerning or in any wise relating to the Treaty
heretofore or lately made between the United States
and the New York Indians, embracing a sale
and conveyance of the Seneca Reservations to
the said Trustees, - with the exception only,
as against the said Trustees above named,
and the said Ogden Company, of a certain
claim, in favor of some of the undersigned,
arising out, or by reason, of a certain
Schedule, called "Schedule D." annexed
to the aforesaid Treaty - In Witness whereof

we have hereunto ~~set~~ severally & by our Attorney thereunto lawfully authorized, set our hands & seals this twenty Eighth day of October in the year of our Lord one thousand eight hundred & forty three

William Tall Chief
by his Atty White his x mark Spencer
Tall Peter
by his Atty White his x mark Spencer
Job Pierce
by his Atty White his x mark Spencer
David Tall Chief
by his Atty White his x mark Spencer
John Spencer
by his Atty White his x mark Spencer
Saml Wilson
by his Atty White his x mark Spencer
John Bennett
by his Atty White his x mark Spencer
Tommy Jimmy
by his Atty White his x mark Spencer
Estate of Jos. Tony dec
by White his x mark Spencer
Jacob G. Spencer
by his Atty White his x mark Spencer
Reuben Jackson
by his Atty White his x mark Spencer
John Jimison
by his Atty White his x mark Spencer
Lifer Jimison
by his Atty White his x mark Spencer
Solon Smith
by his Atty White his x mark Spencer
White his x mark Spencer
by Charles his x mark Jimison

Witness the execution & delivery of this instrument
A. A. Howard

Blue Eyes
By his atty N. J. Strong
George Bennett
By his atty N. J. Strong
Capt Strong
By his atty N. J. Strong
Morris Halftown
By his atty N. J. Strong
Charles Greyhead
By his atty N. J. Strong
William Johnson
By his atty N. J. Strong
George Big Deer
By his atty N. J. Strong
Nicholas Jimison
By his atty N. J. Strong
John Hutcherson
By his atty N. J. Strong
Samuel Gordan
By his atty N. J. Strong
Billy Shuttle
By his atty N. J. Strong
Tony Shaw
By his atty N. J. Strong
Jacob Jimison
By his atty N. J. Strong
Charles F. Pierce
By his atty N. J. Strong
George Fox
By his atty N. J. Strong
Jim Jones
By his atty N. J. Strong
George Fox for the Estate of Capt. Pollard dec. by his atty N. J. Strong
Little Johnson
by his Atty White his x mark Spencer

Lucas Bal

A. Stu[illegible]

Release

Whereas the undersigned Nathaniel T. Strong, acting as Attorney for the following named Indians to wit, Deacon Blue Eyes, Billy Shanks, George Fox, Jim Jones, John Long, Jacob Jemison, Charles F. Pierce, and George Fox acting for estate of Captain Pollard dec.d. has this day executed a release to Herman B. Potter, James Stryker, Orlando Allen and Henry P. Willcox - and Thomas L. Ogden and Joseph Fellows, and others, of whom the two latter are Trustees, by signing and affixing their respective names and marks thereto, but without having any written authority from said Indians for that purpose - Now therefore in consideration of the premises, we, White Seneca, George Jemison and the said Nathaniel T. Strong do hereby engage and agree to & with the above named Herman B. Potter & Orlando Allen, to procure and deliver to them, in one month from this date, from the above named Indians & each of them a full ratification and sanction in writing of the execution of said release by said Strong as our respective Attorney as aforesaid - and in the event of our failure to do so, we will indemnify and save harmless said Potter & Allen and the other persons to whom the release is given & each of them against all claims and demands of said above named Indians or any or either of them against said persons thus released as aforesaid or either of them -

Witness our hands and seals this 28th day of October 1843 -

Sealed & delivered in presence of
A. A. Howard

N. T. Strong
His
George + Jemison
mark
His
White + Seneca
mark

Release

to

H. B. Pottenger

Release

Lawson
to
H. B. Potter et al.
Release

Know all men by these presents, that we the undersigned Indian Chiefs & warriors, for the consideration of more than one dollar to each of us paid, the receipt whereof we do hereby severally acknowledge, have and each of us hath released & discharged and by these presents do & each of us doth for us & each of us release & forever discharge Hernan B. Potter. James Stryker. Orlando Allen & Henry P Wilcox, Thomas L Ogden & Joseph Fellows, & each & every other person interested in the preemption company, of which the said Ogden & Fellows are trustees, their & each of their heirs, executors & administrators, of and from all & all manner of actions, causes of action, sum & sums of money, contracts, covenants, agreements, promises, damages, claims & demands whatsoever in law & equity, which against the said persons first named & refered to or any or either of them their & each of their heirs, executors & administrators we or either or any of us ever had, now have, or which we or either or any of us hereafter can, shall or may have in our individual capacity, for any aid or services at any time rendered, performed & bestowed by us or any or either of us, or for, upon or by reason of, any other matter cause or thing whatsoever, touching, concerning or any wise relating to the treaty of the 15th of January 1838. between the United States & the New York Indians & the release by the Senecas of their reserved lands to the preemption owners, connected, therewith

In witness whereof we have hereunto severally set our hands & seals this twenty eighth day of October 1840

for Major Jack Berry
by Polly his X mark Bennett
his only child
James Lusick

John his X Bennett

Know all men by these presents, that we the undersigned Indian Chiefs & warriors, for the consideration of more than one dollar to each of us paid, the receipt whereof we do hereby severally acknowledge, have and each of us hath ~~released~~ released & discharged and by these presents do each of us doth for us & each of us, ~~release~~ release & for ever discharge Heman B. Potter, James Stryker, Orlando Allen and Henry P. Wilcox, Thomas L. Ogden & Joseph Fellows, each & every other person interested in the preemptive company, of which the said Ogden & Fellows are trustees, their & each of their heirs, executors & administrators, of and from all & all manner of actions, causes of action, sum and sums of money, contracts, covenants, agreements, promises, damages, claims & demands whatsoever in law & equity, which against the said persons just named & refered to, or any or either of them, & their & each of their heirs, executors & administrators we or either or any of us ever had, now have, or which we or either or any of us hereafter can, shall or may have in our individual capacity for any aid or services at any time rendered, performed & bestowed by us or any or either of us, or for, upon or by reason of, any other matter, cause or thing whatsoever, touching, concerning or any wise relating to the Treaty of the 15th of January 1838 between the United States & the New York Indians & the release by the Senecas of their reserved lands, to the preemptive owners, connected therewith.

In witness whereof we have hereunto severally set our hands & seals this twenty eighth day of October 1840.

for Major Jack Berry Dec'd.
by Polly her X mark Bennett
his only Daughter
J. James Curick

John his X mark Bennett

Whereas: Nath.l. T. Strong a Seneca Chief, has executed for us and in our respective names a release under seal to Herman B Potter James Stryker Orlando Allen & Henry P Willcox - Thomas L Ogden and Joseph Fellows, and the permission proprietors of the Seneca Reservations, of whom the said Ogden & Fellows are trustees, bearing date the 28th day of October instant, releasing and discharging them, and each of them of, and from all manner of action & actions, cause and causes of action, sum and sums of money contracts, covenants, agreements, promises, claims, damages and demands, whatsoever in law or equity, which as against the said persons above named and referred to, and any or either of them, we, or either, or any of us, ever had, now have, or may hereafter have, for services, compensations or gratuities rendered by us or either of us, or promised to us or either of us by them or either of them, touching or concerning or in any wise relating to the Treaty heretofore or lately made between the United States and the New York Indians, embracing a sale and conveyance of the Seneca Reservations to the said Trustees, which said execution of said Release by said Strong, as our said Attorney was done and made without any written authority by us given for that purpose

Now Therefore know all men by these presents that we the undersigned indians for the consideration of one dollar to us in hand paid by the above named persons, the receipt whereof is hereby acknowledged do hereby ratify and confirm the execution of the said release as aforesaid by said Strong as our said Attorney respectively

In witness whereof we have hereunto set our hands and seals this 31st day of October A.D. one thousand eight hundred and forty three

Sealed and Delivered in presence of Benjamin Dole

Jacob his + mark Jimerson

Lewis his + mark Lewis

Long Letter
Saml. Brown
to
A. B. Potter & wife

Pilesgrove

BUFFALO
JAN 18
N.Y.

PAID

10

C 4 & 2 infants

Jenny Johnson
& John Blackmarble
Seneca Chiefs Tonawanda
Akron
Erie Co N.Y.

Pile at Akron
will be found
this -

War Department
Office of Indian Affairs
Jany 4th 1844

Gentlemen

I have the honor to acknowledge the receipt of your letter of the 28th ult. relative to the appraisement of the improvements on the Tonawanda Reservation.

Your communication was handed to the Secretary of War, with this indorsement thereon. I do not think the United States have legal power for imposing the duty. The various covenants are between the Tuscarora Nation of Indians and the purchasers Messrs Ogdens & Fellows to which the United States cannot.
The appraisers having been regularly appointed offered to make the valuation and were prevented by the Tonawanda Indians. The appraisement is dispensed with so far as to enable the preemptors to secure possession in the State Courts of the forest or unimproved land a month after. The appraisers offered to discharge the duty and of the improved land two years after. This appears to me to be the only equity of the parties in interest.

T. Hartley Crawford

The Secretary of War has returned the same to me with his concurrence in my views.

Messrs Cooke & Love

Very Respectfully yo obt Svt
T Hartley Crawford

Buffalo Jany 17 1844

Brother

The within is a Copy of a letter addressed to Messrs Cook & Love Appraisers under the Lancaster Treaty in answer to one which they sent the Department the last time they visited you for the purpose of appraising the improvements on your Reservations —

Very Respectfully
your obt Servt
S. Osborne

Jeremy Johnson
John Blackbird
2 others

To. The Hon: William Wilkins
Secretary of War of the U.S.

The Memorial of the undersigned Chiefs. Head Men and Warriors of the Seneca Nation in N.Y. beg leave respectfully to present. John Mack Esquire of Chautauqua Co. to the favourable Consideration of Your Department for the Appointment of removing or Emigrant-Agent — to superintend our migration to our Treaty home at the West —

Mr. Mack we are informed, has heretofore applied to Your Department for this post, with our entire concurrence & at the earnest solicitation of some of our people who had long resided near Him at the Cattaraugus

To this application now on file in Your War office we choose to refer, at this time, to show to Your Honor how entirely the leading principles of the Administration in Regard to degree with the Indian preference on this subject —

For private worth — official integrity. intelligence, experience in transactions with Him We have the guarantee of Experiments covering a tract of time Equal to a quarter of Century —

We will only say We know not what to add to the above towards securing Your favourable consideration

or We should now add it –

In Conclusion We say many of us are ready who have not signed or put their names in by our local Agent at Buffalo – because We are governed by this very choice about Who shall accompany & Conduct us – It ought not to be a Stranger! Mr Black talks our language has been our Neighbor and a peace maker and referee of domestic troubles for almost thirty years since to a principal Reserve – And We ask his Appointment as a personal token of Kindness and Government Consideration towards those who have followed its advice –

We salute Him & are friends,

Done on The Cattaraugus
April 1844

10

Maris B. Pierce Esq
Seneca Chief
Buffalo
N.Y.

Westfield Apl. 14: 1844 –

Alvin B. Pierce Esq.

Dear Sir.

Your letter of 8th inst is recd. You say the Tonawandas intend to resist the execution of the treaties, and you ask my opinion as to the probability of peace by the Indians, if they should appeal to the laws of the state. I can not undertake to discuss a subject having so great a variety of considerations in a single letter, nor have I time to do it at present; I will therefore give my opinion on the subject proposed without attempting to assign reasons at length.

I fear there is very little chance of peace in resisting the stipulations of the amended treaty even tho. the Gen. Government should refuse its aid in enforcing it. It is true that Mr. Spencer represents that unless the Indians consented to the modification of the treaty, the Gen. Gov. would enforce the original one, which he declared to be the permanent law of the land. This declaration I was sorry to hear: and if you remember both Mr. Hoar the Comr. on the part of Mass. & myself, especially declined giving any opinion as to the validity of that treaty of 1840. It is probable that fears of the consequences of that treaty were very efficacious in forcing the

chiefs to sign that of 1842. Yet I apprehend it would not amount to a defense at law. If Mr. Spencer's proposition was entirely in fact it was a matter of opinion in which he might have been sincere, and if sincere can not be imputed to him, the contract although made under a misapprehension of the law would probably be deemed valid.

The Tonawandas stand upon the same footing with the rest of you. The different tribes of the Senecas are one nation, and all are bound by the acts of a majority without reference to their location within the reside at Buffalo, Cattaraugus Allegany or Tonawanda.

I believe the Ogden Co. have never obtained the sanction of the legislature of this state to their purchase. They think the provision of the constitution requiring such sanction does not apply to a case like this where the state has parted with its preemption right. and such without abrogation has been the course of practice for a great many years. The question has never been presented to our courts. If it had been at an early day I can not doubt but that such sanction would be deemed essential to the validity of such contract. But the practice of omitting it has now been so long acquiesced in by all parties interested. that I should fear the result of a litigation resting upon this point alone.

Yours &c

Abram Dixon

Whereas Nathaniel T. Strong a Chief of the Seneca Nation has executed forever and in our respective names a release under Seal to Hiram B. Potter James Skyler Orlando Allen & Henry P. Walker, Thomas L Ogden and Joseph Fellows and the pretended proprietors of the Seneca Reservations of Which the Said Ogden & Fellows are hereby bearing date the 28th day of October 1844, releasing and discharging them and each of them of and from all manner of action and actions, cause and causes of action, Sum & Sums of Money, Contracts covenants, agreements, promises, claims damages and demands whatsoever in law ~~and~~ or equity which against the above named persons or persons referred to, and any or either of them, we or either of us we had, now have or may hereafter have for Services, Compensations or gratuities rendered by us or either of us, or promised to us or either of us by them or either of them, touching, concerning, or in any wise relating to the treaty heretofore or lately made between the United States and the New York Indians, our bearing a Seat, and Conveying of the Seneca Reservations to the Said hunters, which Said execution of release by Said Strong as aforesaid Attorney was made or done without any written authority from us or either of us given for that purpose, now therefore Know all men by these presents that we the under signed Brethren for and in consideration of One dollar to us in hand paid the receipt whereof is hereby acknowledged, do hereby ratify and confirm the execution of the Said release as aforesaid by Said Strong as our Said Attorney respectively, In witness whereof we have hereunto set our hands & Seals this 22 day of April in the year of our Lord 1.

Sealed & delivered in presence of Wm T. B. Davis

Blue his X Eyes mark

Chautauque County ss

On the 22 day of April in the year 1844 Wm. C. B. Davis with whom I am personally acquainted. Came before me and being by me duly sworn. Saith That he was a resident of the town of Charlotte in Said County. That he ~~Tiem~~ ~~Blue~~ Eyes Execute the within Instrument by making his mark — and That he the Said Wm C B Davis Subscribed his name thereto as a witness and That he Knew The Said Blue Eyes to be The person who Executed The Same

H. H. Hawkins J. P.

Know all men by these presents that we the undersigned Indians of the Seneca nation for the consideration of over one dollar to each of us paid, the receipt whereof we do hereby severally acknowledge, have and each of us hath released & discharged and by these presents do and each of us doth for ourselves & for himself release and forever discharge Herman B. Potter, James Stryker, Orlando Allen, & Henry P. Willcox. Thomas L. Ogden & Joseph Fellows and each & every other person interested in the preemption Company called the Ogden Company, of which the said Ogden & Fellows are Trustees, their & each of their heirs, executors and administrators of and from all and all manner action and actions, cause and causes of action sum or sums of money, contracts, covenants, agreements, promises, claims, damages & demands whatsoever in law or equity (except as hereinafter mentioned) which as against the persons just named and referred to, or any or either of them & their & each of their heirs, executors and administrators, we or either of us, ever had, now have or hereafter can, shall or may have, in our individual capacity or otherwise, for services, compensations or gratuities rendered by us or either of us, or promised to us or either of us, touching, concerning or in any wise relating to the Treaty or Treaties heretofore made between the United States, the said Trustees & the New York Indians, embracing a sale and conveyance of the Seneca Reservation or some of them, to the said Trustees. with the exception of our respective rights to certain lands from the said trustees and only of our rights arising from the expressed provisions of the said treaty or treaties, as against the said Trustees & the said Ogden Company and the United States — Witness our hands & seals this twenty third day of November 1844 —

James Stevenson his X mark

Sealed & delivered in the presence of

James Stevenson
Moses Stevenson

State of New York
County of Erie ss: I certify that on this 25th day of November 1844 Came before me James Stevenson, Jabez Stevenson, Moses Stevenson, to me known to be the same persons who have executed the within instrument, and severally acknowledged that they had executed the same for the uses and purposes therein mentioned.

A. A. Howard
Comr of Deeds

Filed
No
At 1 o'clock P.M.
Feb 1 1845

Executive Chamber
Albany 4th March 1845

Brothers,

I have your letter dated on the 22nd day of February and sent by John Blacksmith, who delivered it to me in person. He has been very attentive, and very faithful to the business upon which you sent him here.

We have listened attentively to what your delegates had to say to us, and have examined the grounds of your complaints, as far as we have the means, and the information is within our reach. Upon full consultation, I have concluded to order the Attorney General of the State to make an application to the Supreme Court for an order to direct the Judge of Genesee County to issue warrants against the White men who are intruding upon your lands. That application the Attorney General intends to make to-day, and your delegation are to stay and witness the proceedings. They will be able to tell you what is done.

We think also we shall order the District Attorney of Genesee County to sue the persons who are cutting timber upon your lands to try to recover the penalties which our law imposes upon those who unlawfully cut timber upon the Indian Lands.

By these proceedings we hope to be able to bring up before our Courts the questions which arise between the Tonawanda Band of the Seneca Indians and the Ogden Company, under the Treaty of 1842; and to enable the Courts to decide and settle what rights the Ogden Company have, and what rights the Indians have under that Treaty.

That Treaty, as you know was not made between the Seneca Nation and the authorities of this State, but between the Seneca Nation and the authorities of the Government of the United States at Washington. It is not in our power, therefore, to alter that Treaty, or to set aside any of its provisions. It is as binding upon us, as it is upon you. It is the Supreme law of the land. Any application to change it must be made to our Common

Father, at Washington, and to the Government of the United States, as that Government alone has any power over it.

All we can do is to see what the rights of our Indians are under the Treaty they have made with their Great Father, and to protect them in those rights. That we must do through our Courts, and we think the steps we now propose to take will do that fully.

Brothers. You speak of the Chain of friendship which has so long bound you to the People and Government of this State, and express the fear that it is now "nearly broken" We hope not, nor do we intend it shall ever be separated. We shall do every thing in our power, and which it is right for us to do, to strengthen that Chain, and not to break it, and we believe our Courts will do full justice to the Indian as willingly as to the White man. It may require time and expence to enable them to obtain the information necessary to form a correct judgement as to your rights under this Treaty, but when it is obtained, we believe they will give a righteous judgement upon it, without any disposition to favor the White man at the expence of the Indian.

Brothers, I send this by your delegate John Blacksmith and sincerely wish you, and all your people, health, happiness, long life, constant plenty, and every blessing of the Great Spirit, that his smiles may be upon you in this world and attend you to happiness in the world which is to come.

Silas Wright

To the Chiefs of the Seneca Nation of Indians, Residing upon the Tonawanda Reservation.

Know all Men by these presents that whereas a certain piece or parcel of Land and premises situate in the Village of Saint Regis together with a retail store and other Buildings thereon erected as herein after discribed: Was on the fourteenth day of August in the year of our Lord one thousand eight hundred and Twenty four, let and leased by the then British Indian Chiefs and their Agent to Parsons Taylor of St Regis his heirs and assigns for the term and period of Thirty years; at an annual rent of three Pounds and Fifteen Shillings. And whereas it doth now appear and is made manifest. That the said Lease was obtained by the said Parsons Taylor in his own Name by Means of fraud and misrepresentation and that the said premises did at the time of Making said Lease, of right belong to John Fothingham of Montreal Esquire, of which fact the said British Chiefs as well as their Agent were totally ignorent. —

And whereas the said Parsons Taylor is now deceased, and his widow & heirs desirous to do what is just and right in the Matter after a full and satisfactory investigation of the whole transaction have given up and surrendered to the said Chiefs and their Agent the said Lease made to Parsons Taylor as aforesaid with a view that it may be cancelled and it is hereby cancelled accordingly. —

And whereas the said British Indian Chiefs together with their said Agent willing to

Confirm

confirm to the said John Frothingham the equitable claim which he has established to the said premises. do hereby enter into the following agreement. That is to say that they the said British Indian Chiefs of St Regis for and in consideration of the rents and covenants hereinafter contained on the part and behalf of the said John Frothingham his Heirs Executors administrators & assigns to be paid kept and performed.

Have demised granted and to Farm let.

And by these presents do demise grant and to Farm let unto the said John Frothingham his heirs and assigns all that certain parcel or piece of land and premises situate lying and being in the Village of Saint Regis in the County of Beauharnois in the District of Montreal and Province of Canada and being composed of a Village lot in the said Village of Saint Regis and generally known by the name of Taylors Store. Being butted and bounded & otherwise known as follow (that is to say) Commencing on the waters edge of the River Saint Lawrence at the North westerly limit of the premises leased to. Thomas Torance and James Millar and following said line of limit one hundred and fifty feet more or less to the high Road. Thence following the East side of said Road North westwards Three hundred feet more or less to a deep gully or savine, Thence turning a right angle and running North East Twenty feet more or less to the waters edge and thence following the waters edge to the place of beginning, containing about Three fourth of an Arpent be the same more or less.

To have and to hold the said lot or parcel of Land and premises together with all Houses and Houses wharves, woods and Waters thereon erected lying and being as well as all ways passages Waters water Courses lights easments privileges and appurtenances whatsoever to the same premises belonging or in any wise appertaining unto the said John Frothingham his heirs and assigns from the day and date hereof unto the full end and term of Thirty years from and after the day and date of the aforesaid lease made and executed to the aforesaid Parsons Taylor on the 14th day of August 1824 and which will terminate on the 14th day of August 1854. He the said John Frothingham paying the arrears of rent now due upon said lot of Land and premises as also the annual rent reserved on the first day of January in each year during the unexpired term of thirty years. The sum or rent of Three Pounds and Fifteen Shillings of lawful money of the Province of Canada

Provided always that if it shall happen that the said yearly rent of Three pounds and fifteen Shillings shall be behind or unpaid in part or in all by the space of one Month next over or after any of the said days of payment thereof before mentioned having been first lawfully

demanded

demanded It shall and may be lawful to and for the Chiefs of Saint Regis (for the time being) their heirs and successors by themselves their Agent or attorney, into the said demised premises and into every part thereof in the name of the whole wholly to re enter retain repossess and enjoy as in their former estate, and the said John Frothingham his heirs and assigns and all others the occupiers and possessors of the said demised premises or any part thereof Thereout and from thence to expel put out and remove, This indenture or any thing herein contained to the contrary notwithstanding.

And the said Chiefs of Saint Regis for themselves their heirs and successors, do covenant and agree with the said John Frothingham his heirs executors administrators and assigns in manner & form following (that is to say) that he the said John Frothingham his heirs executors administrators and assigns paying the said yearly rent of Three pounds and Sixteen shillings in manner and form aforesaid shall and may peaceably and quietly have hold use occupy possess and enjoy the said lot of land and premises with the appurtenances for and during the full end term of Thirty years from the day and date of the said lease granted to Parsons Taylor aforesaid and the said Chiefs

of St Regis for themselves their heirs heirs and successors, further bargain and agree with the said John Frothingham his heirs Executors administrators and assigns, in manner and form following (That is to say) That he the said John Frothingham his heirs Executors administrators and assigns shall at the expiration of the term of this present Lease have the preemption right to lease the said premises for a further period of time. —

In testimony whereof the said Indian Chiefs have hereunto set their hands and seals at St Regis this third day of May in the Year of our Lord one Thousand Eight hundred and Forty Five

Signed sealed and delivered in presence of
W. J. Anderson
Edward J. Chesley

tier × karonia ronhser
sak × ta ra tie
tier × sakocalentto
tier × ose tokate
tomo × sa ko. le tte

Recommended
S. J. Chesley
Agent to St Regis Indians

I hereby certify that the prefixed Indenture of Lease is duly recorded the Books of the Indian Department at St Regis this third day of May 1845. —

S J Chesley
Agent

War Department

July 3rd 1845.

Sir,

I herewith transmit for collection six hundred and thirty seven (637) Coupons, being the semiannual interest due on bonds of the following States, amtg. to $17.782.50

175	Coupons	@ $25, each for 6 Mo. int. on Kentucky 5's	$4.375.00
17	do.	@ $125, each for " " " " do. "	2.125.00
			6.500.00
382	do.	@ $25. each for " " " " Alabama 5's	9.550.00
63	do.	@ $27.50 each for " " " " Missouri 5½'s	1.732.50
637	Coupons		$17.782.50

In addition to the above you will find hereto appended my draft at sight, on D. Thompson Esq. Cashier of the Bank of America, N. York, for the semian.d annual interest on Tennessee 5 per cent bonds for $6.250.00

You will please deposit this amt. — $24.032.50 in the Bank of the State of New York, in the name of the Secretary of War, to the credit of the Treasurer of the U. States and transmit to this Department duplicate Certificates of said deposit on account of "Trust fund" interest for the tribes of Indians following, viz:

Cherokees, (Treaty 1835)	6 mo. int. due 1st inst	$16.100.00
Cherokees (Schools 1819.)	" " " " "	275.00
Chippewas & Ottowas	" " " " "	1.925.00
Senecas & Shawnees	" " " " "	342.50
Menomonies	" " " " "	1.925.00
Senecas	" " " " "	125.00
Shawnees	" " " " "	25.00
Creek orphans	" " " " "	2.820.00
Kanzas Schools	" " " " "	495.00 $24.032.50

Very respectfully
your obt. servant
Wm. L. Marcy
Secty of War.

Reuben Withers Esq.
Cashier of the State Bank of New York,
New York. (over)

15152

8.

Recapitulation

Kentucky	Coupons	payable	at the Bank of America	Amt.	$6.500.00
Tennessee	Draft	"	" " " "	"	6.250.00.
Alabama.	Coupon	"	at the Phenix Bank	"	2.050.00
do.	do	"	at the Merchants do.	"	7.500.00
Missouri	do.	"	at the Bank of Commerce		1.732.50
					$24 032.50

NEW YORK STATE LIBRARY ALBANY

To the Honorable the Legislature of the State of New York, the Petition of the Seneca Indians residing upon the Tonawanda Reservation

Respectfully Represent,

That in April 1846 the Treaty of January 15. 1838 as modified by the Treaty of May 20. 1842, is to be executed. By these Treaties the Tonawanda and Buffalo Reservations are to be surrendered to the Ogden Land Company, and the Seneca who occupied the four Reservations, are now to be concentrated upon the Allegany and Cattaraugus Reservations. To these Treaties we the Tonawandas, have never given our Consent. It is a well known fact that the first Treaty was Carried through by fraud and bribery — and that we unanimously opposed its ratification and acceptance in open Council. The Second Treaty is a Compromise and is based upon the Treaty of 1838. We have not given our Consent to the Treaty of 1838, and believe it was not binding upon us, by the language of the Resolution of the U. S. Senate June 11. 1838 — we therefore resisted not to treat with the Ogden Land Company, and again we unanimously opposed & resisted the Treaty of May 20. 1842. But a majority of the Signatures of the Chiefs (without us) were obtained and attached to the Treaty which was consequently ratified by the proper authorities of the U. S. We are now about to be driven from our homes & our lands against our united Consent. Great injustice has been practiced upon us, & a most unlawful speculation is about to be Consummated in the ejectment of our lands from us, by a unprincipled and speculating Land Company. If we leave our present homes, we know not where to go. We have no homes except those we occupy. The Cattaraugus reserve is already full to overflowing and we believe that it is not possible for it to contain more than are already there. The Allegany reserve is poor & we believe not sufficient to contain much more than are already settled upon it. We have therefore resolved to remain upon our lands, until the people of the State of New York will not have our lands or forcibly take them, We therefore humbly pray your Honorable Body to investigate & a Committee the case of the Seneca Indians before April 1846 & devise some relief —

[illegible]

He therefore humbly pray your Honorable Body to investigate & to commute the case of the Seneca Indians before April 1846 & devise some relief —

Chiefs	Number in family	Warriors	Number in family
John X his Blacksmith	6	John X his Blacksmith	6
James X Johnson	2	Monroe X Jonas	7
Bless X Sky	17	Johnny X John	10
Lewis X Jeffery	3	Billy X Stewart	7
Lewis X Hoodley	9	David X Christy	7
Samuel X Parker		John X Pond	7
Wm X Washington	2	David X Hoodley	
John X Sky	7	Daniel X Peter	14
George X Babcock		George X Cooper	6
Richard X Cooper		John X Hill	6
Benjamin Jones		George X Elkinator	15
Tall X his Peter		John X Peterson	
Isaac X his wife Shanks	7	John X Jones	5
John X his wife Bigfire	8	Oak X tar	6
Daniel X his wife Spring	5	Harxar Cars	7
		John X Miller	9
Warriors	Number in family	William X Parker	12
John X his Governor	12	Ja ga X Ja gas ta	10
Han X hase ha ta	6	John X Big bag	9
Daniel X Sky	7	Henry X Moses	10
John X Moses	4	James X Gannoseroy	7
Sam O X Parker	4	James X Joshua	3
Jackson X Green		William X Halek	6
John X Beaver	14	Isaac X Cloftater	6
John X Shanks	8	William X Bigfire	5
Daniel X Bigfire	4	Isaac X his wife Johnson	7
Wm X Taylor	6	John Brooks	2
William X his wife Snyder	12	John X his Chepard	5
Elijah X Brooks	5	James X Jonson	
W. X Snyder Jr		Ephraim X his wife Thomas	4
John X Cooper	4	Isaac X his wife	
John X Crack	4	John P. Parker	2
Joseph X Taylor	5	Henry Parker	
[illegible]	[illegible]	[illegible]	6

Benjamin Jones	
Jill x his Peter	
Isaac x his mark Shanks	7
John x his mark Bigfire	3
Daniel x his mark Johnson	5

Warriors	Number in family
John x his mark Governor	12
Han x Rasoohaia	6
Daniel x Sky	7
John x Moses	4
Sam O x Parker	11
Jackson x Groves	
John x Scanon	14
John x Shanks	8
Daniel x Bigfire	4
Wm x Taylor	6
William x Snyder Sr	12
Aquino x Brooks	5
W. x Snyder Jr	
John x Cooper	4
John x Peck	4
Joseph x Taylor	5
Gar x Co oh	6
John x his mark Infant	5

Geo x his mark Elsinator	15
John x Peterson	
John x Jones	5
Oak x tar po	6
Harry Cars	7
John x Miller	9
William x Parker	12
Sa sa x Sa gaw la	10
John x Big bag	9
Henry x Moses	10
James x Garnoseroy	7
James x Joshua	8
William x Hatch	6
Isaac x his mark Hoffman	6
William x Bigbear	5
Isaac x his mark Johnson	7
John Brooks	2
John x his mark Shepard	5
James x Tommy	
Ephraim x his mark Thomas	4
Geo. Parker	
John P. Pooley	2
Henry Parker Jr	
George x his mark Moses	6
William x his mark Jimmy	5.

I hereby certify that all persons who signed this paper are men of the Seneca Nation, and they did personally and personally make their marks in my presence.

Ely S. Parker
Interpreter —

From Lesse Spring to William Parker
May 8. 1846

Paid

To Ely. S. Parker Esq
Washington

Pembroke Ny
May 8

IN SENATE OF THE UNITED STATES.

February 19, 1847.

Submitted, and ordered to be printed.

Mr. Bagby made the following

REPORT:

The Committee on Indian Affairs, to whom were referred sundry petitions and memorials from citizens of New York, and others, praying that the Tonawanda band of the Seneca tribe of Indians may be exempted from the operation of the treaty of the 20th May, 1842, report:

That the object of the petitioners is to permit the Tonawanda band of Indians to remain on the lands on which they now reside, notwithstanding the provisions and stipulations of the treaty of the 20th of May, 1842.

The pre-emption right to the land referred to in the various petitions and memorials referred to the committee was in the State of Massachusetts, and Massachusetts assigned her interest to Thomas L. Ogden and Joseph Fellows. To this treaty of the 20th May, 1842, there appear, from the face of the treaty, to have been four parties: the United States, acting through her commissioner; the Seneca nation or tribe, acting through their chiefs and headmen; the State of Massachusetts, acting through her commissioner; and Ogden and Fellows, assignees under the State of Massachusetts. The object of this treaty seems to have been to settle finally all the questions of difficulty among the several parties to it, and to carry out and consummate the various contracts and treaty stipulations in regard to the lands in question, and from which the memorialists pray that the Tonawandas may not be removed. The treaty has been ratified and published; and the main question submitted to the committee, and now to the Senate, is, whether it is competent for the government of the United States to annul the provisions of a treaty upon the application of one of the parties to it, or without the concurrence and approbation of all the parties. The committee are clearly of opinion that it is not, and that the treaty can only be dissolved by and with consent of all the parties to it. It is said that no one of the chiefs of the Tonawanda band ever signed the treaty, and that it was a fraud upon them; and that fraud vitiates the treaty, and renders it void *ab initio*.

The committee have no means of knowing to what extent, or whether at all, the Tonawandas were represented in the treaty of 1842. But, in substance, the same evidence was before the Senate when the treaty was ratified, that is now offered and relied upon to exempt the Tonawanda band from its operation. With the substance of this evidence before them,

Ritchie & Heiss, print.

the Senate ratified the treaty; and the committee are of opinion that upon the allegation of fraud or of misrepresentation, or of non-representation, to annul or set aside an Indian treaty would not only tend strongly to unsettle the whole of our Indian policy, but would open a field of interminable difficulty, embarrassment, and expense. They therefore recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

Memorial of chiefs of the Tonwanda band of Seneca Indians.

To the Hon. JOHN TYLER, *President of the United States:*

The undersigned, being head chiefs of the Tonawanda reservation, feeling ourselves aggrieved with the proceedings and decisions of the late treaty with the Seneca nation, think proper to give you a history of the proceedings, hoping that you will investigate the subject, and aid us at Tonawanda to retain our native land, which is so dear to us.

Last winter we sent a delegation to Washington for the purpose of presenting the subject of the pretended treaty with the Senecas before the Houses for their consideration. When they arrived at New York, the Society of Friends were holding their annual meeting at that place, and on learning the business of our delegation, they requested them to return home; told them the reason they wished them to return was, they (the Friends) had an intercourse with government on the subject of the treaty, and feared that if they (the delegation) should go to Washington, it would prove injurious to their breaking up the treaty. The Seneca nation had furnished their delegates with all their papers relative to the treaty, and gave them orders to carry them to Washington themselves, and present them before the Houses. The delegates were unwilling to return, when requested, on that account. But the Quakers told them they would take the papers and present them to Congress, and wished the delegates to return home and inform the chiefs, and keep the thing secret for one month. In that time they thought the subject of the treaty would be settled. The next we heard of the subject, we received a letter from the Quakers, requesting the Seneca nation to send a delegation of two or three chiefs from each reservation to meet them in council at Farmington. We complied with their request, and our delegates met them in council. The Friends addressed them, and said, "Brothers, we have met in council, agreeable to appointment," and said that one of the Friends from Baltimore would read a paper which he had from the Secretary of War office, and he read it; and stated that the Quakers had arranged it so that the Indians might know beforehand what the Secretary of War would do; he also said the Ogden Company had a difficulty with the Seneca Indians for three years, and they would negotiate a treaty with them, and restore to the Indians Cattaraugus and Allegany reservations, and retain the Buffalo and Tonawanda reservations. He told us that the two hundred and two thousand dollars was to be paid to us for the two reservations, Buffalo and Tonawanda; one hundred and two thousand dollars for the improved lands; and one hundred thousand dollars for the unimproved lands. If the Seneca nation would not agree to the proposed treaty then, the Ogden Company would do it at any other time. He also stated to our delegates that the Secretary of War would send a commissioner to hold a

general council with the Seneca nation, and that the object the Friends had in calling the council was, that the Indians might be prepared for the commissioner. He further said that the Friends did not want to advise them, but merely to read the compromised treaty. The delegates that went from Tonawanda arose and stated that the proposed treaty had been explained to them, and if the commissioner should come the chiefs would not agree to any such treaty; they were determined to remain on their land: it being the place where they were born, they were unwilling to leave it; and they would say the same when the Secretary came. The chiefs had sent a number of letters to Washington, stating that they were willing to give up all the land which belonged to the emigration party, but theirs they would keep. We were then told by the Friends that the Secretary of War would send a man to hold a council with us. But the first we knew they came themselves, and appointed a day to meet the Seneca nation in council on the Buffalo reservation. We met them, agreeable to appointment. One of the Friends arose and addressed the council, stating that they had come for the purpose of explaining the compromised treaty. That in this treaty the Ogden Company was to restore to the Senecas the Cattaraugus and Allegany reservations; and all that resided on the Tonawanda and Buffalo reservations should emigrate to the two remaining reservations. This was all that the Quakers could do for us. After the Friends had read the proposed treaty, Israel Jamieson, of Cattaraugus, arose and said that he was opposed to the treaty, and should hold his land. The subject of the treaty was discussed for quite a length of time—some in favor of it, and some opposed to the treaty. The Seneca chiefs concluded that as they had no voice in the framing of the treaty, they would propose alterations and amendments, which should be sent to the Secretary of War. They proposed to give up a part of each reservation, reserving to each native that wished to remain twenty acres of land; and, through the influence of G. M. Cooper, consented, if government would not comply with our request, to give our signatures to the proposed treaty, without alteration. We did not understand the subject as it was; had we, we should not have given our consent. Council adjourned to the 16th of May, at Buffalo reservation. The Secretary of War was to be notified to meet us at the same time. Council met, agreeably to adjournment, on the 16th May, at Buffalo reservation. Present, Ambrose Spencer, agent of the Secretary of War; superintendent from Massachusetts; one from New York, and the Ogden Company. Council opened by Mr. Spencer stating that the Indians had sent a letter to the Secretary of War for the purpose of negotiating a treaty with the Seneca nation, and he was sent by government for that purpose. The commissioner from Massachusetts arose and remarked, that if the proposed compromised treaty did not suit them, (the Indians,) they might make such alterations as would satisfy them; that he was sent by the government of Massachusetts to see that the Indians had justice done to them, and not to advise them to sign the treaty, or not sign. Judge Spencer said that his opinion corresponded with what had been said by the commissioner from Massachusetts. Judge Spencer stated to the council that they must keep all interested white people out, because there were so many that came for the purpose of gain, under the pretension of aiding them in breaking up the old treaty. The council was adjourned, and time given for the private consultation of the Indians upon the treaty. After they (the commissioners) had retired, we were informed

that the Ogden Company and Friends commenced conversation with Mr. Spencer, and Mr. Hoar, from Massachusetts, the company saying they were opposed to what they had remarked in council to the Indians relative to their altering the treaty. The commissioners returned to the council. Mr. Spencer said they had heard there was some misunderstanding in the remarks they had made, and wished to explain them. The explanation was different from what they had said first. The Friends then said that the commissioners from Massachusetts and New York had no authority to alter the treaty. And on the 20th of May Judge Spencer put the question, that all those who were in favor of accepting the compromised treaty should make it manifest by rising. The majority was in favor of and signed the compromised treaty, but none from Tonawanda would accept it. Mr. Spencer assumed the office of chairman of the Seneca nation, which was contrary to the wishes of many of the chiefs. There are about forty of the chiefs of the Seneca nation who *did not* sign the late treaty.

We have given a statement of a few of the difficulties with which we are surrounded. Our rights are as dear to us as the white man's, and all we ask is to enjoy them the few remaining days we have to spend in this world, and not to be driven from place to place, but that we may die where our fathers died, and be buried with them. May the Great Spirit direct you in aiding us in this our persecuted and afflicted situation. We wish you to write to us on the receipt of this, and let us know what you will do for us, or what can be done. Direct your communication to East Pembrooke.

Your brothers, head chiefs of Tonawanda,

JIMMY JOHNSON, his x mark.
JOHN BLACKSMITH, his x mark.
JOHN LUKE, his x mark.
BLUE SKY, his x mark.
JESSE TAFFANY, his x mark.
ELY S. PARKER.

TONAWANDA, *June* 1, 1842.

Petition of citizens of Alabama, Genesee county, New York.

To the SENATE OF THE UNITED STATES:

The undersigned, citizens of Alabama, Genesee county, in the State of New York, humbly represent that we believe great injustice is about to be done to the Tonawanda band of the Seneca Indians, by the execution of the treaty of 1842. We believe that treaty to be invalid, for the following among other reasons:

Almost every signature was obtained on the assurance that if it were not signed, the treaty of 1838, driving them from all their lands, would be immediately executed. The company then knew, and now acknowledge, that that treaty could not be legally enforced. Less than two hundred Indians, on all the reservations, could be found willing to sell, and the chiefs who signed the treaty did so not to part with, but as far as possible to save their homes. If they had known their rights as they now do, not twenty signatures could have been obtained.

Of the Tonawanda band, not one chief ever signed either treaty, nor could a single Indian be induced to consent to departure. The treaty gives them for their lands but one-tenth of their value, and nothing for one of the finest water privileges in the State. They have no place to go to except the Indian territory; and of two hundred who went there from Cattaraugus last spring, over eighty died within four months, from the unhealthiness of the climate. They are a moral, industrious, honest people, rapidly improving in their condition, possessing good farms, and are strongly attached to the homes of their fathers. The people of the State of New York do not desire their removal, and have no sympathy with their spoilers.

In view of these facts, we humbly and earnestly petition your honorable body to except the Tonawanda band of Indians from the execution of the treaty of 1842.

R. B. Warren	N. A. Ensworth
H. Pettibone, jr.	W. R. Hopkins
Wm. G. Morse	Samuel Winchel
Thomas W. Allis	James Matteson
Jeremiah Horning	Guy B. Shepard
Abiatha W. Green	A. B. Palmer
H. H. Stage	Allen Rice
John M. Warren	Eleazer Bernis
Chester Miller	E. B. Ingalsbe
George C. Alexander	Selah Vosburgh
Samuel Piper	Levi Ingalsbe
Curtis Barnes	Charles Adams
William Carr	James B. Chambers
Wyatt W. Goodrich	Shubel Franklin
H. H. Hatheway	Walter Rider
Jacob K. Bartlett	Peter Coon
O. S Hathaway	Lorenzo Clark.
Joseph Webster	

Petition of the Tonawanda band of Seneca Indians.

To the honorable the SENATE OF THE UNITED STATES:

The petition of the Senecas residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, respectfully represents:

That in further illustration of the facts set forth in a petition presented to the President of the United States, our Great Father, the guardian of his wards, the petitioners, and to your most honorable body, and sent to your honorable body, accompanied by a message relating thereto from our Great Father the President, are the following:

That we hold our reserved lands separately and in severalty as a distinct band of the Senecas. That as such we have unanimously protested against the sale of our reservation to the Ogden Land Company, or any persons; and more particularly did we protest, solemnly protest, against the treaties of January 15th, 1838, and May 20th, 1842, in which the United States, other portions of the Senecas, and the Ogden Land Company, were parties. That said treaties were made without any of our participation whatever, we being their constant and strenuous opposers; and that no single chief or individual of our band ever approved of them, or

executed them, or entered into any contract, or agreement, or sale, under them. That no chief, warrior, or individual of our band ever at any time or place, or under any circumstances, sold to the Ogden Land Company, or their agents, an acre of our reserved lands, or received a cent for the same from them, or ever made an agreement or treaty of any kind with them.

That the said treaties were made in pursuance of a resolution of your honorable body of June 11th, 1838, under which we, as a distinct band of the Senecas, were to be assenting parties to make them valid and operative upon us; which provision has not been complied with, we having never assented to or acquiesced in them.

It has also been represented to your honorable body, that since the ratification of these treaties a large number of settlers have attached rights, and that in consequence the United States should not reconsider the treaties under which they claim. To this we answer that we are not to blame. Since we are not parties to the vile and iniquitous treaties under which they claim, we ask, what law founded in justice, and what moral principle, can alienate our just rights of title to our lands and homes? We beg that the Senate of the United States may not deprive us, by their action, of the last heritage left us by our fathers, who received it at the hands of the Great Spirit, merely because a few persons may have squatted on our lands. We assert that they are squatting, for they profess to have no title to the lands; but they are paid by the Ogden Land Company to thus settle upon our lands and disturb the public peace. They have settled under our repeated prohibitions and remonstrances. There continues to be the strongest disposition on the part of the Ogden Land Company to steal into the possession of our lands, thus virtually robbing us of our sacred rights, which we pray the Senate, who have the power, may not allow.

We would again urge upon the Senate to consider, that if we leave Tonawanda we have no homes to go to. The Cattaraugus reservation is now full to overflowing, by the addition of a large number of Senecas from the Buffalo Creek reservation. Much of the land at Cattaraugus is poor and hilly, and not capable of sustaining many families. The Allegany reservation is much poorer in proportion than the Cattaraugus, and there is not a sufficiency of good and fertile soil there to support more families than are already settled there. To these facts the Senecas residing upon those reservations will testify, if appealed to. The United States have become aware, also, of the trouble and difficulties ensuing from the condensed state of the Indians at Cattaraugus, and we pray that the Senate will not compel us to remove to a land where constant trouble, misery, and starvation would be our lot. We believe that it would not only be a great injustice, but a great outrage upon our rights, should the United States enforce these treaties, being, as they are, infected with the vilest deception, fraud, and bribery. When we remember that of the number who emigrated under these treaties to the western country last summer more than sixty have already died, and the few who survive are almost daily returning to the homes of their relatives in this State, we again say that the treaties of January 15th, 1838, and May 20th, 1842, are most ruinous and destructive in their operation, and should not be enforced upon us if the principles of justice are to be followed, and if, as we have been repeatedly told, the policy of the government is beneficent, generous, and humane. The United States cannot have failed to perceive that the operation of those treaties, so far as they extend, has been attended with the most ruinous effects. We fore-

saw all these consequences, and hence we would not participate in any of the treaties, or implicate ourselves in any way by becoming parties to them. We prefer our present homes. With the ruinous operation of these treaties, and the sad fate of our brothers who were compelled to remove under their contracts, before our eyes, we cling with a stronger tenacity to our ancient homes, formerly guarantied to us by the United States by treaty covenants. They covenanted never to disturb us in the peaceable enjoyment of our reservation, and that they would never claim the same until we should voluntarily agree to sell. We complain now that we are disturbed in our homes and upon our lands by your citizens, and that our lands are claimed by citizens of the United States, although we have never voluntarily agreed to convey our title to our reserved lands to any person or persons.

Therefore, your petitioners most earnestly and respectfully pray that your honorable body, taking into full and solemn consideration the facts herein set forth, will exercise your power of revision and construction to the above treaties, being, as you are, a part of the treaty-making power of these United States, and so revise and act upon those treaties as you may think fit, and as the immutable principles of justice and equity require, giving to your petitioners an immediate relief from their most unjust and ruinous operation, and establishing us in the permanent and peaceable possession of our lands forever. We have seen with regret the unstable and wavering course of the United States towards us, and for many years the non performance of treaty covenants; and we now ask, that, our petition being granted, the chain of friendship may be renewed and brightened again, thus establishing and strengthening your beneficent policy towards the Indian race.

And your petitioners, as in duty bound, will ever pray, &c.

Chiefs.

Jimmy Johnson, his x mark.
John Blacksmith, his x mark.
Blue Sky, his x mark.
Jesse Tiffany, his x mark.
Isaac Shanks, his x mark.
John Sky, his x mark.
Lewis Poodry, his x mark.
Samuel Parker, his x mark.
Win Washington, his x mark.
John Bigfire, his x mark.
Jesse Spring.
Daniel Spring.
Richard Cooper.
James Williams, his x mark.
George Sky, his x mark.
Lewis Kennedy, his x mark.
Benjamin Jonas.

Warriors.

David Printup, his x mark.
Henry Bigfire, his x mark.
Joseph Taylor, his x mark.
George Moses, his x mark.
John Griffin, his x mark.
Dennis Sky, his x mark.
Johnny John, his x mark.
Gee-ta-no, his x mark.
Daniel Carpenter, his x mark.
Young Hiram, his x mark.
William Kennedy, sr., his x mark.
William Kennedy, jr., his x mark.
William James, his x mark.
Lewis Hotbread, his x mark.
Daniel Fish, his x mark.
John Johnny John, his x mark.
Daniel Peter, his x mark.
Henry Peter, his x mark.
Henry Hill, his x mark.
Billy Stewart, his x mark.
James Stewart, his x mark.
Joseph Jemison, his x mark.
William Jemison, his x mark.
Henry Jemison, his x mark.
Tommy Jemison, his x mark.
Tommy White, his x mark.

Lewis White, his x mark.
Isaac Johnson, his x mark.
Squire M. Jonas, his x mark.
Bill Snyder, his x mark.
William Clute, his x mark.
George Clute, his x mark.
Cornelius Jimmy, his x mark.
Martin Spring, his x mark.
Ephraim Thomas, his x mark.
Levi Moses, his x mark.
Judson Moses, his x mark.
Peter Beaver, his x mark.
John Beaver, his x mark.
Ha-gwe-yais, his x mark.
Gen-de-o-queh, his x mark.
Ha-na-to-da-go, his x mark.
John Possum, his x mark.
John Jack, his x mark.
William Jack, his x mark.
Allen Kennedy, his x mark.
Gilson Snyder, his x mark.
William Snyder, his x mark.
William Bigfire, his x mark.
Da-ga-sa-gars-ta, his x mark.
Samuel Taylor, his x mark.
John Moses, his x mark.
Ho-ha-teh, his x mark.
Squire Brooks, his x mark.
Isaac Doxtator.
Samuel Parker.
James Ganoscrang, his x mark.
John Hatch, his x mark.
Henry Moses, his x mark.
William Moses, his x mark.
Isaac Doctor, his x mark.
William Jimmy, his x mark.
William Parker, his x mark.
John Shanks, his x mark.
Hiram Tommy, his x mark.
James Reuben, his x mark.
Harrison Printup, his x mark.
George Shanks, his x mark.
Erastus Printup, his x mark.
Alexander Printup, his x mark.
Henry Snow, his x mark.
Charles Snow, his x mark.
William Taylor, jr., his x mark.
John Blackchief, his x mark.
William Moses, jr., his x mark.
Charles Doctor, his x mark.
Jacob Doctor, his x mark.
John Lone, his x mark.
Chauncey Lone, his x mark.
Oak-ta-go, his x mark.
Go-an-je-daro, his x mark.
Henry Carpenter, his x mark.
John William, his x mark.
George Elkinton, his x mark.
Jacob Shongo, his x mark.
James Sundown, his x mark.
William Shongo, his x mark.
William Clute, jr., his x mark.
William Fish, his x mark.
George Reuben, his x mark.
Levi Reuben, his x mark.
John Reuben, his x mark.
Tommy Hill, his x mark.
John Hill, his x mark.
John Miller, his x mark.
William Sundown, his x mark.
Joseph Miller, his x mark.
James Johnson, his x mark.
Henry Johnson, his x mark.
John Infant, his x mark.
John Brooks.
David Poodry.
John P. Poodry.
Edward Poodry, his x mark.
George Cooper, his x mark.
Adolphus Cooper, his x mark.
Charles Cooper, his x mark.
Abram Moses, his x mark.
John Big Tree, his x mark.
John Farmer, his x mark.
Andrew John, his x mark.
Alexander Abrams, his x mark.
Ga-go-oh, his x mark.
Joshua Ganoscrang, his x mark.
De-ya-go, his x mark.
Harrison Sundown, his x mark.
Git-gwa-eh, his x mark.
John Jones, his x mark.
Eton Sky, his x mark.
James Tommy, his x mark.
Amos Snyder, his x mark.
Henry Snyder, his x mark.
Charles Taylor, his x mark.
Orin Bigfire, his x mark.
W. Blackchief, his x mark.
William Taylor, sr., his x mark.
Go-gwa-yeh, his x mark.
George Beaver, his x mark.
William Brooks.

I hereby certify that all persons who signed this paper are men of the Seneca nation, and that they did severally and personally sign and make their marks in my presence.

ELY S. PARKER, *Interpreter.*

Petition of the delegation of the Tonawanda band of Seneca Indians.

To the SENATE OF THE UNITED STATES:

The petition of the undersigned, a delegation of the Tonawanda band of the Senecas residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, respectfully represents:

That in addition to the facts set forth in a petition presented to our Great Father the President, addressed to himself and your most honorable body, and sent to your honorable body accompanied by a message relating thereto from our Great Father the President, are the following:

That the Tonawandas hold their reserved lands separately and in severalty as a *distinct band of the Senecas;* that as such they have unanimously protested against the sale of their lands to the Ogden Land Company; and more particularly did they protest, solemnly protest, against the treaties of January 15, 1838, and of May 20, 1842, in which the United States, other portions of the Senecas, and the Ogden Land Company, were parties.

That the said treaties were made without any participation of the Tonawandas in them, (they constantly and strenuously opposing them,) no single chief or individual of said band having ever approved them, executed them, or entered into any contract, or agreement, or sale, under them.

That no chief, warrior, or individual of the Tonawanda band of Senecas ever, at any time or place, or under any circumstances, sold to the Ogden Land Company, or their agents, an acre of their reserved lands, or ever received a cent for the same, or ever made a treaty or agreement with them of any kind.

That the said treaties were made in pursuance of a resolution of the Senate of June 11, 1838, under which the Tonawanda as well as other bands were the assenting parties to make them valid; which provision has not been complied with, they never having assented to or acquiesced in them.

That at and before the time the said treaty of January 15, 1838, came up before the Senate for confirmation, the Tonawandas protested against its confirmation; but which protest, as your petitioners are informed, was not presented to the Senate, or its committee; otherwise, as they firmly believe, said treaty would never have been confirmed; and, in fact, was not confirmed by the constitutional majority of two-thirds of the Senate, as the Journal will show.

Notwithstanding all these facts, the said treaties purport to sell and convey to the said Ogden Land Company, without adequate compensation, the reserved lands of the Tonawandas, and to cruelly and unjustly compel their removal from their lands, their farms, and homes, and from the graves of their fathers.

Therefore, your petitioners most earnestly and respectfully pray that your honorable body, taking into your solemn consideration the facts herein set forth, will exercise your fullest power of revising, annulling, or defi-

ning these treaties, or taking such other action upon them as in your sacred character of guardians of the rights and protectors of the interests of your red children, or in your capacity of the treaty-making power, you may think will best further the ends of justice, remedy the evils complained of, suffered under these treaties, *and relieve your petitioners from their most unjust and ruinous operation.*

And your petitioners will ever pray.

JOHN BLACKSMITH, his × mark.

Witness: WM. LINN BROWN,
W. D. PORTER.

ISAAC SHANKS, his × mark.

Witness: WM. LINN BROWN,
W. D. PORTER.

ELY S. PARKER,

Witness: WM. LINN BROWN,
W. D. PORTER.

Delegation of the Tonawanda band of the Senecas.

Message from the President of the United States, communicating a petition of the Tonawanda band of Seneca Indians, praying that steps may be taken to abrogate the treaties of 1838 *and* 1842.

To the Senate of the United States:

In compliance with the request of a delegation of the Tonawanda band of the Seneca Indians, now in this city, I herewith transmit for your consideration a memorial addressed to the President and the Senate in relation to the treaty of January 15, 1838, with the "Six Nations of New York Indians," and that of May 20, 1842, with the "Seneca Nation of Indians."

JAMES K. POLK.

WASHINGTON, *April* 1, 1846.

WAR DEPARTMENT,
Office Indian Affairs, March 28, 1846.

SIR: I have the honor to report to you on a memorial or petition of the Seneca Indians residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, addressed to the President of the United States and the honorable the Senate.

The memorialists present their views on the subject of the treaties of 1838 and 1842, complaining that these treaties were never signed by them, and that they are not binding upon them, although ratified by the Senate: they therefore pray that the proper steps may be taken to abrogate these treaties; and that the reservations may be again placed under the government of their respective chiefs, setting forth their reasons why this should be done.

This memorial it is the request of a delegation of these Indians, now in Washington, should be presented to the Senate by the President; and it

is herewith enclosed, to be laid by you before him for such action as he may think proper to take upon it.

Very respectfully, your obedient servant,

W. MEDILL.

Hon. WM. L. MARCY, *Secretary of War.*

To his Excellency the President and to the honorable the Senate of the United States:

The petition of the Seneca Indians residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, respectfully represents:

That we did unanimously oppose the treaty of January 15, 1838, and prevented its adoption in open council. That we did also unanimously oppose the treaty of May 20, 1842, and to the last. From the beginning to the end of these movements to take away our lands, we have unitedly and unanimously resisted.

We therefore believe that these treaties should not be executed upon us, if the principles of justice are to be followed. We believe there is no moral obligation upon us to adhere to them; and for denying their force, and resisting their execution, we set forth the following reasons:

1st. The Senate and President of the United States assumed to treat with the Seneca nation as an independent people having power to form a treaty, and bind themselves thereby; and then, by the resolution of June 11, 1838, took away our *independence* by prescribing the manner in which our assent should be given, namely, by the signatures of a majority of our chiefs in open council; when, in fact, by our national laws, it was and still is necessary that *all* of the chiefs should be of one mind; that they must *unanimously* agree to make a treaty—otherwise it cannot be made. In this fundamental law of the Iroquois, and of our nation, we at Tonawanda would have found protection. If the United States treat with us according to the laws recognised among nations, and upon the principles of justice, here is a valid objection to the execution of these treaties, and a sufficient reason why they should be unmade. We never before were required, in our treaties with the United States, to depart from our national forms of assenting to treaties which were to bind us.

2d. If it is insisted by the United States government (which has all the power to carry them into execution) that these treaties are valid notwithstanding this objection, we present as another reason why these treaties should be broken up, that no equivalent is to be given to us for our lands. The peaceful possession of these lands has been guarantied to us by the United States government. The *ownership and the title* were in us. The Ogden Company, to whom the government right to purchase has been transferred, has a mere naked right to purchase when we are ready to sell, and nothing more. They cannot compel us to sell. Now we believe that, by the principles of justice and equity recognised among white people, we are entitled to the full value of our lands. We believe, further, that this reservation, if put in market, would bring $14 per acre on an average, including improvements, while these treaties pay us for the land and improvements about $2 50 per acre on an average. By these treaties, then, we are about

to be despoiled of property which was undeniably ours at the rate of $11 50 per acre, even if we had been willing to sell it at its market value. In a word, over $\frac{11}{14}$ths of all we possess has been taken from us by these treaties, and given to the Ogden Company. The same estimate will hold with reference to the Buffalo reservation. How unholy this speculation! These facts alone must show that treaties so obviously unjust were never made by our nation willingly and fairly; and lead to the inference that our lands have been wrested from us so pointedly as to demand of the government of the United States, from a sense of justice to itself, that the circumstances under which these treaties were obtained should be re-examined, and, if found as represented in this petition, that the treaties themselves should be unmade by the parties thereto.

3d. In the third place, as further reasons why the United States should break up these treaties, at least so far as we at Tonawanda are concerned, we urge the following: If we leave Tonawanda we have no homes to go to. The Cattaraugus reservation is now full to overflowing, by the addition of 450 Senecas from the Buffalo reserve; so much so, that 250 still remain at Buffalo from necessity. The Cattaraugus reservation is small, and much of the land is hilly, and not capable of sustaining any families; and we believe that those already there can scarcely live. The Allegany reserve has also about as many as it can contain and support, and has more poor and hilly land in proportion than the Cattaraugus. It is absolutely impossible that we on this reservation, 500 in number, could live upon the Allegany with those already there. Starvation and misery would be the inevitable result. We cannot go there, and do not intend to, at all hazards. The truth and force of these facts will be realized when it is remembered that our two best reserves, the Tonawanda and Buffalo, are to be taken from us; and if we are all collected upon the remaining two, the number of people will thus be more than doubled at once. It is horrible to believe that the United States government will bring famine and death upon us by executing these treaties. We cannot believe it. It may be said we ought to emigrate to the western wilderness. We answer, that there are less than one hundred at this time, and never have been more than 150, out of 2,500 Senecas, willing to emigrate. We cling to the land of our birth. We are linked together by the ties of brotherhood and consanguinity; and we must share a common destiny. We prefer to progress, as we do now, towards the customs of the whites, rather than to go into the wilderness again, and fall back to our natural or the hunter state.

4th. It is not necessary for us to detail the circumstances by which the treaty of 1838 was carried through. The fact that a majority of the chiefs of our nation did not sign the treaty in "open council," as the resolution of the Senate of June 11, 1838, directed; that some of those who did sign were bribed by money and promises of land; that others were made drunk; that others were made chiefs illegally, for the express purpose of signing; are well known and now admitted. And further, as to the treaty of 1842, although a majority was then obtained, (without the votes of any of the chiefs on this reservation, who all refused either to vote or to sign,) yet the compromise was made by the Senecas under a mistaken knowledge of their rights. The only question settled by that treaty was, whether they would unconditionally [sign, or] whether they would lose all their reservations, or save two of them. It was a mere *sacrifice* of two to *save* two, believing

that the *four* were otherwise lost. The fact that a majority signed under such circumstances, gives no *moral* force to the treaty.

5th. It may be said that under these treaties the rights of the Ogden Land Company have attached; and, if the United States and the Senecas should abrogate these treaties by a new council, the company could recover damages of the government. We answer, that we are not to blame. We did not ask the United States to make a treaty with us. We did not ask the Ogden Company to buy our lands. The first treaty was absolutely thrust upon us, and the last extorted from us, when it was well known that *twenty-three hundred and fifty* out of *twenty-five hundred* Senecas were decidedly and unequivocally unwilling to sell any lands.

6th. We may be told that we must look for redress to the courts of New York, or the courts of the United States; and that they will do us justice if we are entitled to any. We answer, that we are also informed that the legal tribunals cannot look behind or below the outward face of treaties which have been ratified, and inquire into the *manner or means* whereby they were obtained. The courts of law, therefore, cannot reach the evil or do us justice. If we look away from the President and Senate, our rights, our lands, and our hopes are gone. The United States government, which authorized a commissioner to make these treaties, can authorize another commissioner to unmake them, and we, on our part as a nation, will most gladly assent.

Your petitioners, in view of all the circumstances, most humbly and earnestly pray, that before April, 1846, the Senate of the United States will pass a resolution recommending to the President that the case of the Seneca Indians demands a new and full investigation; and if the facts are found to be as represented in relation to these treaties, that the commissioner who investigates the facts shall then be authorized to make a new treaty, which shall abregate all past treaties, and restore the Seneca nation once more to its rights, place each reservation for the future under the control of its separate chiefs, and thus give, in effect, to the Seneca nation that redress which justice, equity, and humanity demand.

And your petitioners, as in duty bound, will ever pray, &c.

Chiefs.

		Number in family.
John Blacksmith,	his x mark	6
James Johnson,	his x mark	2
Blue Sky,	his x mark	19
Jesse Tiffany,	his x mark	3
Lewis Poodry,	his x mark	9
Samuel Parker,	his x mark	
Win Washington,	his x mark	2
John Shry,	his x mark	7
George Babcock,	his x mark	
Richard Cooper,	his x mark	
Benjamin Jones,		
Tall Peter,	his x mark	
Isaac Shank,	his x mark	7
John Bigfire,	his x mark	3
Daniel Spring,	his x mark	5

Warriors.

		Number in family.
John Possum,	his x mark	12
Hau-nase-haà,	his x mark	6
Daniel Shry,	his x mark	7
John Moses,	his x mark	4
Samuel Parker,	his x mark	4
Jackson Ground,	his x mark	
John Brann,	his x mark	14
John Shanks,	his x mark	8
Daniel Bigfire,	his x mark	4
William Taylor,	his x mark	6
William Snyder, sr.,	his x mark	12
Squire Brooks,	his x mark	5
W. Snyder, jr.,	his x mark	6
John Cooper,	his x mark	4
John Jack,	his x mark	4
Joseph Taylor,	his x mark	5
Gar-go-oh,	his x mark	6
John Infant,	his x mark	5
William Clute,	his x mark	5
Isaac Doctor,	his x mark	9
James Shongo,	his x mark	6
Hiram Clute,	his x mark	7
John Blackchief,	his x mark	6
Monroe Jonas,	his x mark	7
Johnny John,	his x mark	10
Billy Stewart,	his x mark	7
David Printup,	his x mark	7
John Lone,	his x mark	7
David Roodey,	his x mark	
Daniel Peter,	his x mark	14
George Cooper,	his x mark	6
John Hill,	his x mark	6
George Elkintor,	his x mark	15
John Peterson,	his x mark	
John Jones,	his x mark	5
Oak-ta-go,	his x mark	6
Har-ar-sars,	his x mark	7
John Miller,	his x mark	9
William Parker,	his x mark	12
Ja-ga-sa-gass-ta,	his x mark	10
John Bigbay,	his x mark	9
Henry Moses,	his x mark	10
James Gar-nos-crog,	his x mark	7
James Joshua,	his x mark	3
William Hatch,	his x mark	6
Isaac Doxtater,	his x mark	7
William Bigfire,	his x mark	5
Isaac Johnson,	his x mark	7
John Brookes,		2
John Shepard,	his x mark	5

James Tommy,	his x mark	
Ephraim Thomas,	his x mark	4
Levi Parker, esq.,		
John P. Poodry,		2
Henry Parker,		
George Moses,	his x mark	6
William Jimmy,		5

I hereby certify that all persons who signed this paper are men of the Seneca nation, and they did severally and personally sign and make their marks in my presence.

ELY S. PARKER, *Interpreter.*

Case of the Tonawanda Indians in brief, accompanied with proofs.

As requested by the committee of the Senate on Indian Affairs, the undersigned has the honor to hand to the committee a list of the points in his argument made before them, and the accompanying proofs of facts.

The following are the points of the case, accompanied with conclusive proof:

Point 1st. That the resolution of the Senate of 11th June, 1838, has not been complied with.

Point 2d. That the Tonawandas are no parties to these treaties, and never assented to them as required by the Senate's resolution.

Point 3d. That from the commencement of these unjust treaties, up to this present time, they have been constant opposers and protestants against them.

Point 4th. That they strip them of their property without an adequate equivalent, and place them in a situation inadequate for their support, entailing misery and want upon them.

Point 5th, lastly. That these treaties are so tainted with fraud and deception, so destructive of all right, and so manifestly cruel and unjust in their operations, as to make it imperative upon the Senate, upon every principle of duty and faith, to grant the prayers of the petitioners, to act upon them and relieve them.

In support of 1st point:

I hand herewith a volume of Indian treaties, (marked A.) At pages 48 and 49, &c., will be seen the treaties of the United States with the Senecas, and their mutual *contracts.* Also a speech on these Indian treaties, (marked C,) in which is the resolution of the Senate under which these treaties were made; and by reference to the treaties, the tribe or band of the Tonawandas not being parties, (as it will be seen,) their lands cannot be taken away under it.

To sustain the 2d point:

I hand herewith a volume of the case of the Seneca Indians, (marked D.) At pages 93, &c., you will see all the parties' names to the treaty of 1838 set out. Also the treaty of 1812, (marked F,) with all the names thereto. Also the memorial of the Tonawandas, (marked L,) signed by all the chiefs and warriors of that tribe; by a comparison of which you will see that not an individual of the Tonawandas has signed either treaty, or assented to them, as required by the Senate's resolution.

In proof of the 3d point:

I present the same volume, (marked D.) At pages 139, 140, and 141, is the protest of all the Tonawanda chiefs and warriors against the treaty of 1838; also the proceedings of the council of 1842. At pages 28, 73, and 74, you will find the reiterated solemn remonstrance and rejection, in open council, of the treaty of 1842, by the principal sachem, for himself and all the Tonawanda chiefs. Also a certified copy of letter to the President, signed by all the Tonawanda chiefs, charging the government of the United States not to receive treaty money from the company, (marked G,) and protesting anew against the treaty of 1842. Also another remonstrance to the President, signed by all the chiefs, against all the acts of the Ogden Company, and receiving treaty money, (marked H.) Also another public protest (marked I) against the sale of the Tonawanda lands at Batavia, addressed to the Secretary of War. These, with those now before the Senate, prove a current of solemn protest, remonstrance, and dissent to these treaties from the commencement to this time.

To sustain the 4th point:

I refer to the petition already presented, (marked G.) in which the whole body of chiefs solemnly aver that their lands now held are *fifty acres* to each *individual*. In connexion with this, I present book marked B; at pages 190, 191, and 193 are tables showing these assertions to be *true*, and an estimate (marked J) elucidating this and giving the result—showing that every assertion in this point is sustained, and that they are *despoiled* of their lands, and are in future to suffer *want and misery* in receiving not sufficient land for support, although they are, as stated in report in book marked B, in a high state of civilization; (pages 189 and 190.)

To sustain the 5th and last point:

I present the whole record, showing fraud and deception throughout practised upon the *Indians* and the *government*. More particularly to show this, I present the document marked M, being the proceedings of the mass meeting of the people of New York, whose sense of justice and moral regard to right have been so deeply wounded by these treaties, that they have risen as *one man* against them. Take these, with the petition of the delegates, (marked L,) and that marked N, accompanying the President's message, and the foundation of it, every averment in which is *proved by documentary testimony* presented to the committee, and the whole charge in this point is fully made out—*presenting a case* that, indeed, in the opinion of the undersigned, makes it *imperative*, upon the treaty-making power to *grant the prayer of the petitioners.*

WM. LINN BROWN, *Philadelphia,*
Counsel for the Tonawandas.

A.

A treaty between the United States of America, and the tribes of Indians called the Six Nations. (Iroquois)

The President of the United States having determined to hold a conference with the Six Nations of Indians, for the purpose of removing from their minds all causes of complaint, and establishing a firm and permanent friendship with them; and Timothy Pickering being appointed sole agent for that purpose, and the agent having met and conferred with the sachems, chiefs, and warriors of the Six Nations, in a general council: now, in order to accomplish the good design of this conference, the parties have agreed on the following articles, which, when ratified by the President, with the advice and consent of the Senate of the United States, shall be binding on them and the Six Nations:

Art. 1. Peace and friendship are hereby firmly established, and shall be perpetual between the United States and the Six Nations.

Art. 2. The United States acknowledge the lands reserved to the Oneida, Onondaga, and Cayuga nations, in their respective treaties with the State of New York, and called their reservations, to be their property; and the United States will never claim the same nor disturb them or either of the Six Nations, nor their Indian friends residing thereon, and united with them in the free use and enjoyment thereof; but the said reservations shall remain theirs until they choose to sell the same to the people of the United States who have a right to purchase.

Art. 3. The land of the Seneka nation is bounded as follows: Beginning on lake Ontario, at the northwest corner of the land they sold to Oliver Phelps, the line runs westerly along the lake, as far as Oyongwongyeh creek, at Johnston's Landing Place, about four miles eastward from the fort of Niagara; then southerly, up that creek to its main fork; then straight to the main fork of Stedman's creek, which empties into the river Niagara above Fort Schlosser; and then onward, from that fork, continuing the same straight course, to that river; (this line, from the mouth of Oyongwongyeh creek to the river Niagara, above Fort Schlosser, being the eastern boundary of a strip of land extending from the same line to Niagara river, which the Seneka nation ceded to the King of Great Britain at a treaty held about thirty years ago with Sir William Johnston;) then the line runs along the river Niagara to lake Erie; then along lake Erie to the northeast corner of a triangular piece of land, which the United States conveyed to the State of Pennsylvania, as by the President's patent, dated the third day of March, 1792; then due south to the northern boundary of that State; then due east to the southwest corner of the land sold by the Seneka nation to Oliver Phelps; and then north and northerly, along Phelps's line, to the place of beginning on lake Ontario. Now, the United States acknowledge all the land within the aforementioned boundaries to be the property of the Seneka nation; and the United States will never claim the same, nor disturb the Seneka nation, nor any of the Six Nations, or of their Indian friends residing thereon and united with them, in the free use and enjoyment thereof; but it shall remain theirs until they choose to sell the same to the people of the United States who have the right to purchase.

Art. 4. The United States having thus described and acknowledged what lands belong to the Oneidas, Onondagas, Cayugas, and Senekas, and

engaged never to claim the same, nor to disturb them or any of the Six Nations, or their Indian friends residing thereon, and united with them in the free use and enjoyment thereof; now the Six Nations, and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof.

Art. 5. The Seneka nation, all others of the Six Nations concurring, cede to the United States the right of making a wagon road from Fort Schlosser to lake Erie, as far south as Buffalo creek; and the people of the United States shall have the free and undisturbed use of this road, for the purposes of travelling and transportation. And the Six Nations, and each of them, will forever allow to the people of the United States a free passage through their lands, and the free use of the harbors and rivers adjoining, and within their respective tracts of land, for the passing and securing of vessels and boats, and liberty to land their cargoes where necessary for their safety.

Art. 6. In consideration of the peace and friendship hereby established, and of the engagements entered into by the Six Nations, and because the United States desire, with humanity and kindness, to contribute to their comfortable support, and to render the peace and friendship hereby established strong and perpetual, the United States now deliver to the Six Nations, and the Indians of the other nations residing among and united with them, a quantity of goods of the value of ten thousand dollars; and for the same considerations, and with a view to promote the future welfare of the Six Nations and of their Indian friends aforesaid, the United States will add the sum of three thousand dollars to the one thousand five hundred dollars heretofore allowed them by an article ratified by the President, on the twenty-third day of April, 1792, making in the whole four thousand five hundred dollars; which shall be expended yearly, forever, in purchasing clothing, domestic animals, implements of husbandry, and other utensils suited to their circumstances, and in compensating useful artificers, who shall reside with or near them, and be employed for their benefit. The immediate application of the whole annual allowance now stipulated to be made by the superintendent, appointed by the President, for the affairs of the Six Nations, and their Indian friends aforesaid.

Art. 7. Lest the firm peace and friendship now established should be interrupted by the misconduct of individuals, the United States and Six Nations agree, that for injuries done by individuals on either side no private revenge or retaliation shall take place; but, instead thereof, complaint shall be made, by the party injured, to the other: by the Six Nations, or any of them, to the President of the United States, or the superintendent by him appointed: and by the superintendent, or other person appointed by the President, to the principal chiefs of the Six Nations, or of the nation to which the offender belongs; and such prudent measures shall then be pursued as shall be necessary to preserve our peace and friendship unbroken, until the legislature (or great council) of the United States shall make other equitable provision for the purpose.

Note.—It is clearly understood by the parties to this treaty, that the annuity stipulated in the sixth article is to be applied to the benefit of such of the Six Nations, and of their Indian friends united with them as aforesaid, as do or shall reside within the boundaries of the United States; for the United States do not interfere with nations, tribes, or families of Indians elsewhere resident.

In witness whereof, the said Timothy Pickering, and the sachems and war chiefs of the said Six Nations, have hereto set their hands and seals.

Done at Konondaigua, in the State of New York, the eleventh day of November, in the year one thousand seven hundred and ninety-four.

Timothy Pickering, [L. S.]
Onoyeahnee, his x mark, [L. S.]
Konneatorteeooh, his x mark, or Handsome Lake, [L. S.]
Tokenhyouhau, his x mark, alias Captain Key, [L. S.]
Oneshauee, his x mark, [L. S]
Hendrick Aupaumut, [L. S.]
David Neesoonhuk, his x mark, [L. S]
Kauatsoyh, alias Nicholas Kusik, [L. S.]
Sohhonteoquent, his x mark, [L. S]
Ooduhtsait, his x mark, [L. S]
Konoohqung, his x mark, [L. S]
Tossonggaulolus, his x mark, [L. S]
John Skenendoa, his x mark, [L. S.]
Oneatorlecooh, his x mark, [L. S.]
Kussauwatau, his x mark, [L. S.]
Eyootenyootauook, his x mark, [L. S]
Kohnyeaugong, his x mark, alias Jake Stroud, [L. S.]
Shaguiesa, his x mark, [L. S.]
Teeroos, his x mark, alias Captain Prantup, [L. S.]
Sooshaoowau, his x mark, [L. S]
Henry Young Brant, his x mark, [L. S]
Sonhyoowauna, his x mark, or Big Sky, [L. S.]
Onaahhah, his x mark. [L. S.]
Hotoshahenh, his x mark, [L. S.]
Kaukondanaiya, his x mark, [L. S.]
Nondiyauka, his x mark, [L. S.]
Kossishtowau, his x mark, [L. S.]
Oojaugenta, his x mark, or Fish Carrier, [L. S.]
Toheonggo, his x mark, [L. S.]
Ootaguasso, his x mark, [L. S]
Joonondauwaonch, his x mark, [L. S]
Kiyauhaonh, his x mark, [L. S.]
Ootaujeaugenh, his x mark, or Broken Axe, [L. S.]
Tanhoondos, his x mark, or Open the Way, [L. S.]
Taoundaudeesh, his x mark, [L. S.]
Twaukewasha, his x mark, [L. S]
Sequidongquee, his x mark, alias Little Beard, [L. S]
Kodjeote, his x mark, or Half Town, [L. S.]
Kenjauaugus, his x mark, or Stinking Fish, [L. S.]
Soonohquaukau, his x mark, [L. S.]
Twenniyana, his x mark, [L. S.]
Jishkaaga, his x mark, or Green Grashopper, alias Little Billy, [L. S.]
Tuggehshotta, his x mark, [L. S.]
Tehongyagauna, his x mark, [L. S.]
Tehongyoowush, his x mark, [L. S.]
Konneyoowesot, his x mark, [L. S.]
Tioohquottakauna, his x mark, or Woods on Fire, [L. S.]

Honayawus, his x mark, alias Farmer's Brother, [L. S.]
Soggooyawauthau, his x mark, alias Red Jacket, [L. S.]
Konyootiayoo, his x mark, [L. S.]
Sauhtakaongyees, his x mark, or Two Skies of a length, [L. S.]
Ounnashattakau, his x mark, [L. S.]
Kaungyanehquee, his x mark, [L. S.]
Sooayoowau, his x mark, [L. S.]
Kaujeagaonh, his x mark, or Heap of Dogs, [L. S.]
Soonoohshoowau, his x mark, [L. S.]
Thaoowaunias, his x mark, [L. S.]
Soonongjoowau, his x mark, [L. S.]
Kiantwhauka, his x mark, alias Cornplanter, [L. S.]
Kaunehshonggoo, his x mark, [L. S.]

WITNESSES:

Israel Chapin,
William Shepard, jr.,
James Smedley,
John Wickham,
Augustus Porter,
James K. Garnsey,
William Ewing,
Israel Chapin, jr.,
Horatio Jones, } *Interpreters.*
Joseph Smith, } *Interpreters.*
Jasper Parish, } *Interpreters.*
Henry Abeele.

B.

Extract from the report of Mr. Schoolcraft to the Secretary of the State of New York, transmitting the census returns in relation to the Indians.

"*The seeds of industry are well sown; letters have been generally introduced, and in some instances they have produced men of talents and intelligence, who have taken an honorable part in the professional and practical duties of life. Very gratifying evidences exist of the adoption, on a large scale, of the improved arts and conveniences of polished life. In manners, costume, and address, the Iroquois people offer a high example of the capacities and ready adoptive habits of the race.* It only needs a reference to the statistical tables mentioned, to show that they are not *behindhand in implements of husbandry, vehicles, work-cattle, horses, and the general features of their agriculture.* They are abundantly *able to raise sufficient for their own consumption,* and some of the communities have a surplus which is added to the productive resources of the State. From those who have done so well, and who have shown such unequivocal capacities for improvement, we may expect more. From the tree which has produced blossoms, we may expect fruit; and from the bearing tree which has produced good fruit, we may expect more fruit. Under all circumstances, we may regard the problem of their reclamation as fixed and certain. They have themselves solved it; and whatever an enlightened people and legislature should do to favor them, ought not to be omitted. Churches and societies who have granted their peculiar aids, should continue those aids; and the heart of the philanthropist and the statesman has cause to rejoice, that after all their wars and wanderings, mistakes and besetments, the Iroquois, made wise by experience, are destined *to live.* The results of the census, herewith submitted, demonstrate this. The time is indeed propitious for putting the inquiry, whether the Iroquois are not worthy to be received, under the new constitution, *as citizens of the State.*"

Return of the enumeration of the Indians on the several reservations, with the other statistical information required by law to be obtained in the said reservations.

1. RESERVATIONS.	Total population.	2. Number of male persons in the reservation.	3. Number of female persons in the reservation.	4. Number of married females, under the age of 45 years, in the reservation.	5. Number of unmarried females, between the ages of 16 and 45, in the reservation.	6. Number of unmarried females, under 16 years of age, in the reservation.	7. Number of marriages during the year preceding, in the reservation.
1. Oneida	157	71	86	24	3	47	
2. Onondaga	368	173	195	63	19	73	5
3. Tuscarora	312	148	164	18	10	11	6
4. Buffalo	446	200	246	73	47	61	3
5. Cattaraugus	808	393	415	89	40	30	10
6. Cayugas, on the Cattaraugus reservation	114	56	58	16	6	5	2
7. Allegany	783	390	393	127	33	168	6
8. Tonawanda	505	224	281	101	45	69	4
9. St. Regis	260	126	134	44	5	67	
Total	3,753	1,781	1,972	555	208	531	36

RETURN—Continued.

RESERVATIONS.	8. Number of births in the reservation during the year preceding.		9. Number of deaths in the reservation during the year preceding.		10. Number of persons in the reservation born in the State of New York.	11. Number of persons in the reservation born in any of the other States of the Union.	12. Number of persons in the reservation born in G. Britain or its possessions.	13. Number of children in reservation between the ages of 15 and 16 years.	14. Number of children in the reservation attending private or select unincorporated schools.
	Males.	Females.	Males.	Females.					
1. Oneida	8	5	1	–	155	1	1	59	20
2. Onondaga	6	10	11	12	364	–	1	169	40
3. Tuscarora	5	5	1	3	286	–	30	63	43
4. Buffalo	3	7	14	7	433	1	6	117	57
5. Cattaraugus	17	11	11	13	789	–	7	121	86
6. Cayugas on the Cattaraugus reservation	4	1	3	3	114	–	–	21	14
7. Allegany	13	6	13	13	752	35	–	227	162
8. Tonawanda	5	8	4	3	496	–	11	126	40
9. St. Regis	–	7	5	3	125	–	135	81	
Total	61	60	63	57	3,514	37	191	984	462

Agricultural statistics.

RESERVATIONS.	15.	16.		17.		18.		19.	
	Acres of land.	Barley.		Peas.		Beans.		Buckwheat.	
	Number of acres of improved land in the reservation.	Number of acres of barley under cultivation.	Quantity of barley raised therefrom during the preceding year.	Number of acres of peas under cultivation.	Number of bushels raised.	Number of acres of beans.	Quantity raised.	Number of acres of buckwheat.	Quantity raised.
1. Oneida - - - - - -	421	10	200	3½	35	3¼	11		
2. Onondaga - - - - - -	2,043¼	2½	70	7¾	91	-	-	2½	50
3. Tuscarora - - - - - -	2,079½	20	430	5	65	-	-	18	245
4. Buffalo - - - - - -	1,914	-	-	18½	-	-	-	3	
5. Cattaraugus - - - - -	2,123	96¼	1,300	-	301	-	-	6½	420
6. Cayugas on the Cattaraugus reservation -	316	-	-	-	23	-	-	-	227
7. Allegany - - - - - -	2,163½	6	35	18¼	90	-	-	18¼	
8. Tonawanda - - - - - -	2,216	42	550	30	200	1	15	5	112
9. St. Regis - - - - - -	591¼	¾	-	27	105	11	18	8	
Total - - -	13,867½	177¾	2,585	110	910	15¼	44	61¼	1,054

C.

Speech of Mr. Sevier, of Arkansas, in executive session, on the treaty with the New York Indians; delivered in the Senate of the United States March 17, 1840.

Mr. SEVIER addressed the Senate as follows:

Mr. PRESIDENT: The treaty now under consideration is a complicated affair, and on that account, as well as on account of its importance to the Seneca Indians, to the State of New York, to the grantees of the State of Massachusetts, and to the United States, I hope, while I endeavor, in discharge of my public duty as chairman of the committee on Indian Affairs, to explain it, that I shall be indulged with the patient attention of the Senate.

This is a treaty of much more importance than is generally supposed. It is one about which the Senecas and their friends feel, as they have felt for upwards of two years, (during all of which time it has been before the country, in one form or another,) a deep, intense, and an all-absorbing interest. The written appeals of a large majority of this tribe to the President and to the Secretary of War, to the Senate, and to individual Senators, earnestly imploring a rejection of this treaty; the immense mass of testimony with which they have furnished us respecting it; the constant attendance of their delegates here, upon their own expenses, at a great distance from their homes, and at the sacrifice of an utter abandonment of their private pursuits, at all times, when this treaty was before the Senate; and their daily attendance in our galleries, to observe and to gather, if possible, something from our proceedings, show most abundantly the light in which this treaty is viewed by them.

On the other hand, the citizens of New York, and especially those residing about Buffalo, have their wishes and hopes and fears respecting its fate with the Senate. They have furnished us, also, with testimony and memorials, and sage suggestions, upon the subject of Indian policy and Indian welfare. They, too, have had their lobby members and ambassadors here, consisting of both red and pale faces, for the purpose of urging this treaty through this body. Nor are these the only interested parties. Massachusetts seems to have in this treaty something more than a general interest; she seems to have an interest somewhat particular and identical, which I deem important first to consider and explain, that we may fully understand it in all its bearings.

Prior to 1786, Massachusetts claimed, as properly belonging to her, a portion of the State of New York. This claim New York contested; and this somewhat angry controversy was not finally settled, as we learn from the public journals of that day, until 1786. This dispute was then settled, by Massachusetts ceding to New York all her right and title to the *government*, *sovereignty*, and *jurisdiction* over the disputed territory; and, in consideration of this cession, the State of New York ceded to Massachusetts, and to her grantees, and to the heirs and assigns of her grantees, *the right of pre-emption of the soil of the native Indians* to the territory described in this compromise. The native Indians occupying the territory to which Massachusetts thus acquired the right of pre-emption were then, as now, the Tuscaroras and Senecas of New York.

It was further stipulated in this compromise by New York, that Massa-

chusetts might, at any time, by persons duly authorized by her for that purpose, hold *treaties* and *conferences* with these Indians *relative to a purchase of their lands;* and further, that Massachusetts should have the right to dispose of this pre-emption right to any person whatever. This compromise was approved of and sanctioned by Congress in 1787. A complete and full detail of this contract is to be found in the 4th volume of Journals of Congress of the year 1787. at page 788, to which I respectfully refer any honorable Senator who may desire to see it.

The right of pre-emption being thus secured to her, as well as the right to dispose of it, Massachusetts did afterwards, in 1791, sell this right of pre-emption to the Holland Land Company, and that company to David Ogden, and Ogden to the present claimants. The present claimants being the grantees and representatives of Massachusetts, have the indisputable right to hold *treaties* and *conferences* with the native Indians, for the purpose of purchasing out the Indian right of occupancy; and in exercising this right, though courtesy might seem to require it, this company are under no obligations to consult either New York or the United States. I have not been able to lay my hands upon the contract between Massachusetts and her grantees, and am therefore ignorant of the terms of that contract. But, judging from the interest which Massachusetts invariably manifests upon the subject of the acquisition of these lands, and upon seeing her represented by an agent or superintendent at every sale of them, I have concluded that she considers herself bound by her contract to either New York or her grantees, and probably to both, for the performance of her superintendency upon such occasions. How this matter stands I know not; but should such information be thought desirable by the Senate, I presume the distinguished Senators from New York and Massachusetts can give it.

Mr. President, in considering the various interests involved in this treaty—the interests of the Senecas, of the citizens of New York, and of the grantees of Massachusetts—the committee have thought it their duty to consider, in connexion with those interests, the interests of a fourth party, which is that of the United States. And with a view to understand this complicated affair, the committee have endeavored to trace our relations with the Six Nations of New York, from their commencement up to this day, so far at least as the Senecas are concerned, for the purpose of discovering if there be on our part any *undischarged obligations* to either of the parties interested in the subject-matter now before us. The first treaty which I have been able to find with the Six Nations of New York was concluded in 1784. That was a treaty of peace, a relinquishment of territory on their part, and a definition of their boundary lines on ours. In 1789, five years thereafter, a second treaty was made, which is, so far as I have been able to discover, but little more, if any thing, than a recapitulation of the former one.

The third and last treaty ever made by us with the Six Nations of New York, in their confederated character, (unless the one we are now considering should constitute a single exception,) was made in 1794. This was an important treaty, and has governed us in all our intercourse with them ever since. In that treaty we acknowledged *separately*, to each of the tribes composing the Six Nations, their individual right and title to certain specific reservations of land; and we guarantied to them *separately* the possession and enjoyment of their respective reservations; and conferred upon them the right to dispose of their reservations respectively, in whole

or in part, to any citizen or citizens of the United States, whenever and however they might choose; and for these rights the Indians on their part engaged, in the same treaty, never to set up any claim to any other lands in the boundaries of the United States, than those granted in that treaty.

This was the last treaty ever made by us with those Indians, collectively or separately, from 1794 up to 1838—a period of more than forty years. From that time onward, to 1838, we acted in good faith, and permitted those Indians, according to the terms of the treaty of 1794, so far at least as the Senecas were concerned, to dispose of their New York lands as they chose. Since 1794, the Senecas have disposed of their lands on several occasions. In 1797, they were permitted to sell to Robert Morris, of Philadelphia, a portion of their reservations. Afterward, in 1802, the same Senecas were permitted to sell another portion of their lands to Phelps, Bronson, and Jones; and again, in the same year, to Wilhelm Willick and others; and again, in 1823, to Grigg and Gibson. Each and all of those sales were made openly, freely, and voluntarily, and under the guardian care *only* of the United States on the one hand, and of the agent or superintendent of the State of Massachusetts on the other. These lands were transferred by the Indians to their grantees, *not by treaty*, but by the ordinary deeds of conveyance; nor does the transfer of those lands to Ogden and Fellows, in 1838, vary in any degree but in the prefixture of a preamble to it, from all the other deeds of conveyance which have been made by them subsequent to 1794.

Having, then, as we have seen by the treaty of 1794, such ample power to dispose of these lands—a power so often and so satisfactorily exercised by them—and the United States having no interest whatever in these lands, and being constitutionally incapable of having any, and not being bound by compact, as in the case of Georgia, to extinguish the Indian title to those lands, it may well be asked, why have we interfered in this affair? Why have we attempted, with unabated assiduity, for more than two years, with our influence, with our agents, and means, and money, to barter with those Indians for their New York reservations? I will endeavor, sir, to unravel this mystery. It is a curious piece of intrigue and history, which should never be forgotten, as it may be of some service to the country hereafter.

As early as 1818, we find the agents of two small bands of New York Indians applying to Mr. Monroe, then President of the United States, for permission to purchase, *with their own means and upon their own account*, of the Menomonies of Green Bay, a portion of their lands. The files of the War Department will show that the grantees of Massachusetts were at the bottom of this simple, unpretending, and modest application; and, among other reasons, we find that religion, which is so often prostituted by the designing to cover up intrigue and sinister motives, was the argument used on that occasion to obtain this permission. It will be recollected that the United States will permit no Indian tribe which they have any thing to do with to dispose of their lands except to the United States. The authority, therefore, of the United States was indispensable to enable the missionaries, Williams and Hendricks, to make a valid purchase of the Menomonies. Mr. Monroe, not foreseeing the objects in view, and understanding distinctly, as their memorial expressly stated, that these two bands were to pay out of their own means for all the lands they purchased of the Menomonies; and further, that they were to acquire, by such purchase, no

other or better right than that held by the Menomonies—so understanding it, Mr. Monroe gave his assent to such a purchase. The assent of Congress, or of the Senate, to such an unusual arrangement, was neither asked nor obtained. It seems to have been looked upon by Mr. Monroe as quite a small affair. Under his authority, thus obtained, the agents of these two small tribes, as *they alleged*, made a purchase, and paid for it, as they informed us, the sum of $12,000. This purchase, however, has ever been strenuously denied by the Menomonies, and the contract made between those Indians, whatever it was—if, indeed, there ever was any—is not now to be found where, surely, if in existence, it ought to be found—in either the Indian Bureau or in the War Department. As matters now stand, however, it is but of little consequence for us to know (unless for the purpose of seeing in what manner we have been imposed upon) whether such a contract ever existed or not. We all know there was a controversy about it between the parties, and that we were drawn into it. This controversy was settled by us in a treaty with the Menomonies in 1832. Thus we see that this small affair, which originally was to be confined to two small tribes, and which on our part was to have been nothing more than a mere naked assent, now loses its insignificance, and begins to swell into a matter of considerable importance. Here we find ourselves placed in a dilemma which was brought about, as they doubtless anticipated, by the early intrigue of this land company. These small bands, under Mr. Monroe's permission, moved to Green Bay; and as the title to the lands they claimed by purchase was controverted, we were called upon to interfere, and (as we supposed, to benefit the Indians) did interfere, and bought out the Menomonies for them, and gave them the lands. And there they are yet. This treaty does not disturb them. This is not all. We have paid back to them not only the $12,000 they allege to have paid the Menomonies, but we have given them a great deal more. We have given them, besides the lands they claim to have purchased of the Menomonies for their $12,000, the sum of $40,000—$5,000 to the St. Regis tribe, and $35,000 to the Oneidas—*as a remuneration to them for their purchase of, and removal to, the Green Bay lands*, under Mr. Monroe's permission. Now, let me ask, if it be not too late, why have we submitted to such imposition? Why have we bought land for these New York Indians, over whom we had no control or jurisdiction? Why have we made large advances to them, without any consideration? We have done so for the double purpose of gratifying New York and this overgrown and grasping land company. We have thus seen Mr. Monroe's permission, of which I have spoken, first leading to an Indian controversy, and then ending in a settlement of it by which we have had to buy land and advance thousands of dollars as remuneration (as it is falsely called) to these New York Indians; and all without the pretext of an obligation or consideration on our part.

I will now, Mr. President, take my leave of the Green Bay Indians, and return to the treaty of 1832. In that treaty, concluded in this city with a delegation from the Menomonies of Wisconsin, we obtained of them, for the sum of $20,000, 500,000 acres of their lands near Green Bay, for the future residence not only of those small bands who emigrated under Mr. Monroe's permission, but for *all* of the New York Indians then residing in New York. We obtained this land, so far as we were concerned, as a mere *gratuity*, and without any other consideration, so far as appears to me, than the wishes of New York and this land company that we should do so.

New York desired this land secured; not so much for the residence of those then residing in Wisconsin, for their welfare had ceased to interest her, but for the New York Indians then within her borders, in the hope that her Indians could be induced to move to them; and in that event, that she would be rid of an Indian population, at the expense of the United States, she was most anxious to get clear of; and that the land company would be able, for little or nothing on their part, to get of them their New York lands, mainly but indirectly at the expense of the United States also. These were the calculations; and hence we find that in that treaty the New York Indians, although apparently so deeply interested, were not parties to it. And why were they not? I will endeavor to inform you, sir.

In the treaty of 1794, the New York Indians engaged to claim no other land within the boundaries of the United States than that particularly described in that treaty. They had modesty and honesty enough to know that there was no treaty ever afterwards made by which we were pledged or bound to purchase land for them at Green Bay, or anywhere else. They knew they had no claim of any character upon us; and not desiring any other lands than those they were possessed of, and seeing no necessity for a treaty, they stood aloof, and had no participation in it. And in this same treaty the Menomonies disclaim any right or just claim of the New York Indians to the Green Bay lands. And this is not the only disclaimer. We find in the printed documents now before us, at page 127, that the Senecas say that "the Senecas have no right or title to that country, (Green Bay,) as we have never accepted or paid for any interest there, nor do we at this time have any claim to that country whatever." And I will add, that in a letter received last night I am informed that the Senecas are now holding a council for the purpose of *retransferring* to you *this gratuity*, which, given to them in 1832 without their knowledge or consent, you seem determined to force upon them, and which they on their part seem disposed just as decidedly to reject—with a full knowledge that the New York Indians then residing in New York had no claims upon us for lands anywhere; and, on the contrary, when we knew they had solemnly engaged, in their treaty of 1794, to set up no claim for any other within the boundaries of the United States than those particularly described in that treaty; yet, with a full knowledge of all this, we made the treaty of 1832.

In that treaty, in which the New York Indians were not parties, it was stipulated, without their consent or knowledge, that they should remove to the lands we purchased for them at Green Bay, within three years thereafter, or else that their right to this 500,000 acres of land should be forfeited, and revert to the United States. This penalty was inserted under a belief that it would not be disregarded by the Indians; but, on the contrary, would be considered of such consequence as to induce their emigration. If it was not so designed, why was a time fixed for their emigration at all? Of what consequence was it to us whether those Indians emigrated this year or next year, or never? Sir, the Indians looked upon the whole of these proceedings, in which they had had no participation, with a provoking indifference and nonchalance. They cared nothing for these lands, or the forfeiture thereof. They considered they had comfortable homes in New York, and there they determined to remain. This temper of the Indians was soon found out by those desiring their emigration; and it was, therefore, necessary to get the time for their removal extended, so that the company could have time to apply the *proper remedies*, and bring about a con-

version of the Indians to an acquiescence in their desired policy. Governed by such considerations as these, we were applied to to change this provision in the treaty; and, as usual, we permitted ourselves, like a nose of wax, to be twisted about by this company, and to gratify them did modify this provision, by a supplementary article to the treaty, so as to leave the time for their removal to the discretion of the President of the United States. So it stands now. Eight years have elapsed since that treaty was made, and yet the President has not required those Indians to move to their Green Bay lands, or notified them, if they did not by a given time, that he should exact the penalty according to the terms of the treaty. The reasons of the President for permitting those Indians to remain upon their New York lands without exacting the penalty, are doubtless benevolent, humane, and praiseworthy. His forbearance upon this subject, thus far at least, is not considered by me just cause of censure. Yet I should consider it his duty, before a great while, to close up this contingent claim. I think if these Indians do not within a reasonable time move to these lands, that they should revert to the United States; and in this reversion they can have no just cause of complaint. Their title to these lands is *conditional—dependent entirely upon their removal to them.* It was a mere gratuity on our part, and cost them nothing, not even solicitation or empty thanks; and now, if they will not accept our proffered gratuity—if they will not occupy those lands, voluntarily tendered to them *on that condition*, there can be no injustice in exacting their forfeiture on their failure to comply with the condition.

Mr. President, we purchased, as before observed, in 1832, 500,000 acres of land at Green Bay, for the future residence of the New York Indians. This purchase being on our part, as before stated, a mere gratuity, and, so far as appears from our records, without the knowledge or solicitation of the Indians, five years thereafter, in the year 1837—for what reasons or at whose promptings we are left to conjecture—it seems to have become suddenly, and all at once, a matter of vital importance for us to purchase out this gratuity—a gratuity which the Indians considered of so little consequence or value to them, that they would neither move to it, nor have it. But no matter for that: we determined to buy back from them what we had given them as a present five years before; and, in furtherance of these views, in 1837 we appointed a commissioner to accomplish for us this all-important object.

A purchase of this Green Bay land was the *ostensible* object of this mission. The *real* object, as I shall show you in the progress of this discussion, was to obtain our influence, and our means and money, to *assist* a dozen or so of land speculators to purchase of the New York Indians their New York lands, for which they held, under Massachusetts, the pre-emption right. And, sir, we have already done so, to some extent. We have purchased out for this company, and for New York, five of the six tribes—all of the New York Indians, except the Senecas—and we have attempted to buy them out also; whether successfully or not, remains to be seen by a decision upon the question now before us.

In 1837, as before observed, we appointed a commissioner, with the ostensible object of purchasing of the New York Indians their Green Bay lands. So soon as this was known, we found much excitement and agitation among the Indians, growing out of their attachment for, and reluctance to leave, their native land. They understood very fully the object of the

negotiation. They knew the Green Bay land was but a *pretext*, and not the *real* object of the commissioner. They understood all this. They knew the object of the treaty was to get from them, for the land company, their New York lands. To overcome these scruples, and to reconcile them to the measure, the agents of the land company went to work, and I will now show you, sir, in what manner:

"Articles of agreement made and concluded this 29th day of July, 1837, between Heman B. Potter, of the city of Buffalo, of the first part, and John Snow, a Seneca chief, of the Buffalo Creek reservation, in the county of Erie, of the second part.

"Whereas, in conformity with the declared policy of the government of the United States, the proprietors of the pre-emptive title of and in the four several tracts of land reserved by the Seneca tribe of Indians, within the said State of New York, are desirous to induce the above mentioned tribe of Indians to accept, for their future and permanent residence, a tract of country in the territory west of the river Mississippi appropriated for Indians inhabiting the Atlantic and other neighboring States; and are also desirous, by fair purchase, to extinguish the right of the said Indians in and to the lands in this State so reserved by them:

"And whereas, in furtherance of these objects, and in order to a future treaty by which to effect the same, the said proprietors have authorized negotiations to be opened with the chiefs and other leading men of the said tribe of Indians, and certain offers to be made to them in money as a permanent fund for the nation, and a compensation for their improvements; and have also deemed it advisable and necessary to employ the aid, co-operation, and services of certain individuals who are able to influence the said Indians to accept the offers so to be made to them:

"And whereas the said Heman B. Potter, the party of the first part, is empowered to act on behalf of the said proprietors, and to contract with any individuals whose co-operation and agency may be necessary and efficient in accomplishing the above mentioned object; and the said John Snow, the party of the second part, has agreed to contribute his influence and services in the premises; and in case of the extinguishment of the said Indian title to the said reserved lands as aforesaid, to sell to the said proprietors all and singular his improvements of, in, and to the same:

"Now, therefore, it is mutually agreed by and between the parties hereto, as follows:

"First. The party of the second part undertakes and agrees to use his best exertions and endeavors to dispose and induce the said Indians to adopt and pursue the advice and recommendations of the government of the United States, in respect to their removal and future location; and on such *said* terms as the party of the first part, and his associates, in the name of the said proprietors, shall propose to sell and release, by treaty, their said reserved lands; and on all occasions to co-operate with and aid the said party of the first part, and his associates, as he may be from time to time advised, in talks and negotiations with the chiefs and other influential men of the said tribe; and in the active application of his whole influence at councils, and confidential interviews, for the purpose of effecting a treaty between the said tribe and the said proprietors, for the extinguishment of the Indian title to the said reserved lands.

"Second. The second party of the second part hath sold, and hereby doth sell, to the said proprietors, all and singular his buildings and im-

provements on the lands so to be released by treaty, and agrees to accept compensation therefor in the manner hereinafter mentioned; said buildings and improvements in the mean time not to be leased nor in any manner disposed of by said party of the second part.

"Third. In consideration of such efforts, co-operation, and services on the part of the said John Snow, faithfully bestowed in the premises, and of the sale and release of all and singular his said buildings and improvements upon any of the lands aforesaid, without leasing or otherwise disposing of the same, as hereinabove stipulated, the said Heman B. Potter, on his part, and that of his associates, agrees to pay, or cause to be paid, to the said John Snow, the sum of two thousand dollars, within three months after notice of the ratification, by the Senate of the United States, of a valid treaty between the said tribes and the owners of the said pre-emptive title, or their trustees, by which the right and title of the said Indians shall be effectually released and extinguished in and to the said reserved lands; subject, however, to the following qualification and understanding: that in case the said treaty shall provide for the payment to individual Indians for their buildings and improvements, then and in that case the said party of the second part shall accept and receive, as part payment of the above-mentioned sum of two thousand dollars, such sum or compensation as he shall or may be entitled to, by and under the provisions of such treaty, for his said buildings and improvements, and the balance of the said two thousand dollars which shall remain, after deducting therefrom such compensation as aforesaid, and that only to be paid by the said party of the first part, as above specified, within the time above mentioned, or as soon thereafter as the said balance can be ascertained; and in case said party of the second part shall be entitled, by and under the provision of said treaty, to the sum of two thousand dollars and upwards, he shall receive the same as may be therein provided, and the said party of the first part shall be discharged from paying any part of said two thousand dollars.

"And the said John Snow shall also be entitled, at a nominal rent, to a lease from the owners of the pre emptive title, or their trustees, of and for the lot of land actually improved and occupied by him, called the Whipple farm, near the old council house, on the Buffalo reservation, for and during his own natural life, determinable when and as soon as he shall cease to live on and occupy the same; said lease to be executed by the lessors as soon after said treaty as said lands shall have been surveyed and allotted, said lease having reference to said survey.

"This agreement on the part of said party of the first part being expressly dependent upon a treaty to be made and ratified upon terms, conditions, and stipulations to be proposed and offered by the said party of the first part, and his associates.

"H. B. POTTER, [SEAL.]

"JOHN his × mark. SNOW, [SEAL.]

"Witness: GEORGE his × mark. JIMESON,

"True copy: "M. B. PIERCE.

"P. S.—Marius B. Pierce, above named, is one of the chiefs who signed the Buffalo treaty."

"Articles of agreement made and concluded this 7th day of August, 1837, between Heman B. Potter, of the city of Buffalo, of the first part, and Samuel Gordon, a Seneca Indian, of the Cattaraugus reservation, in the county of Erie, of the second part:

"Whereas, in conformity with the declared policy of the government of the United States, the proprietors of the pre emptive title of and in the four several tracts of land reserved by the Seneca tribe of Indians, within the said State of New York, are desirous to induce the above-mentioned tribe of Indians to accept for their future and permanent residence, a tract of country in the territory west of the river Mississippi appropriated for Indians inhabiting the Atlantic and other neighboring States, and are also desirous, by fair purchase, to extinguish the right of the said Indians in and to the lands in this State so reserved by them:

"And whereas, in furtherance of these objects, and in order to a future treaty by which to effect the same, the said proprietors have authorized negotiations to be opened with the chiefs and other leading men of the said tribe of Indians, and certain offers to be made to them in money, as a permanent fund for the nation, and a compensation for their improvements, and have also deemed it advisable and necessary to employ the aid, co-operation, and services of certain individuals who are able to influence the said Indians to accept of the offers so to be made to them:

"And whereas the said Heman B. Potter, the party of the first part, is empowered to act on behalf of the said proprietors, and to contract with any individuals whose co-operation and agency may be necessary and efficient in accomplishing the above-mentioned object, and the said Samuel Gordon, the party of the second part, has agreed to contribute his influence and services in the premises:

"Now, therefore, it is mutually agreed by and between the parties hereto, as follows:

"First. The party of the second part undertakes and agrees to use his best exertions and endeavors to dispose and induce the said Indians to adopt and pursue the advice and recommendation of the government of the United States in respect to their removal and future location; and on such fair terms as the party of the first part and his associates, in the name of the said proprietors, shall propose to sell and release, by treaty, their said reserved lands, and on all occasions to co-operate with and aid the said party of the first part and his associates, as he may be from time to time advised, in talks and negotiations with the chiefs and other influential men of the said tribe; and in the active application of his whole influence at councils and confidential interviews, for the purpose of effecting a treaty between the said tribe and the said proprietors, for the extinguishment of the Indian title to the said reserved lands.

"Second. In consideration of such efforts, co-operation, and services on the part of the said Samuel Gordon, faithfully bestowed in the premises, the said Heman B. Potter, on his part and that of his associates, agrees to pay, or cause to be paid, to the said Samuel Gordon, the sum of five thousand dollars, within three months after notice of the ratification, by the Senate of the United States, of a valid treaty between the said tribe and the owners of the said pre emptive title, or their trustees, by which the right and title of the said Indians shall be effectually released and extinguished in and to the said reserved lands.

"This agreement, on the part of said party of the first part, being expressly dependent upon a treaty to be made and ratified upon terms, conditions, and stipulations to be proposed and offered by the said party of the first part, and his associates.

"H. B. POTTER. [SEAL.]
"SAMUEL GORDON. [SEAL.]

"Witness: O. ALLEN.

"It is understood and agreed that the sum of one thousand dollars is to be added to the within contract.

"O. ALLEN.
"H. P. WILLCOX.

"SEPTEMBER 29, 1838."

There are six other contracts of a similar character, which I will not take up the time of the Senate to read. These eight have lately come to light. How many are yet behind, undisclosed, time will tell.

Here, Mr. President, we have a few illustrations, most liberal and honest and patriotic illustrations, of the means used by the agents of this land company, and under the authority of the proprietors, to induce the leading and influential chiefs to sell the lands of their unwilling constituents. Here we see, under the very nose of our commissioner, and at the moment of commencing his negotiation, *ostensibly* for the purchase of their Green Bay lands, the sum of *twenty one thousand six hundred dollars* in cash, besides leases, some for a term of years, some for life, some during occupancy, and one grant in fee simple, offered and promised in writing to eight leading and influential chiefs, by this land company, as rewards, or rather as *bribes*, for serving this company *faithfully*, with their influence, *in council and in confidential interviews with the other Indians, so as to effect a treaty with the government for their Green Bay lands, and so as to effect a release and relinquishment of the Indian title to the proprietors of their reserved lands in the State of New York; and in case of success in these double negotiations, and in the event of their ratification by the Senate of the United States, then these bribes were to be consummated, and not otherwise.*

By these dark and midnight transactions, the order of things was to be curiously reversed. The *emigrating party* were to stay in New York upon their leases, and the *non-emigrating party* were to be transported beyond the Mississippi. And are these contracts denied? No, sir; they are unblushingly and shamelessly admitted and justified! They are admitted and justified by Seneca White, one of the chiefs in favor of the treaty and of emigration, in his speech to the Secretary of War last August. They are admitted and justified by N. Strong, another chief in favor of the treaty and of emigration, in his letter to the President of the 9th of last March. They are admitted by Orlando Allen, a white man, and one of the active agents of the land company, and justified, in his letter to the President of the 11th of last March. And pray what is the justification?

Mr. Allen tells us, in his testimony, which he communicated to the President last spring, "that he *has understood* (and believes the attempt was never made to conceal it) that provision was made for some of the chiefs, in accordance with all former usages among the Senecas." Yes, sir; Mr. Allen may well say *he has understood* that provision was made for some of the chiefs; for I find this same Orlando Allen, who, under oath, speaks so *doubtingly*, as though by hearsay only, is a subscribing witness to at least two

of these contracts. But, as to his *belief* that there were no attempts made to conceal these contracts—contracts which were for *secret* influence and *confidential services*—we, of the committee, who have travelled through this whole mass of testimony, will believe just as much of this part of his testimony as we please; and that is precious little of it, if any. While voluntarily furnishing a part of his testimony for the benefit of the President, he would have done but an act of justice if he had given him, in addition, that part of his testimony taken on the same occasion; which was, that he was an agent of the company, and *directly interested* in the success of the treaty. Mr. Allen assimilates these rewards promised and given to these chiefs, in this underhanded and clandestine manner, to the annuity given to Red Jacket, Corn Planter, and others. Sir, there is no similitude in these cases. What was given to Red Jacket, Corn Planter, and to the others he has named, was given in open day, in the presence of the nation, and with the knowledge and approbation of their tribes. But enough of all this, for the present at least.

Sir, the Indians being thus tampered with, and prepared, by bribes in advance, for the occasion, our commissioner entered upon the stage for the performance of his part of the drama. And, sir, not to be tedious, to pass over a thousand details, and to come at once to the result, I will inform the Senate that our commissioner, after a protracted negotiation, did actually succeed in purchasing for us the Green Bay lands. And he got these lands for us for the very trifling and frivolous consideration of $400,000 in cash, and 1,800,000 acres of land west of and adjoining the State of Missouri. Here is a negotiation for you, which I am satisfied that nothing but patience and perseverance, and skill and dexterity, and adroitness, aided with good friends to "back his suit withal," ever could have achieved. This $400,000 in cash, and 1,800,000 acres of land, is all that our commissioner agreed to give for 435,000 acres of land at Green Bay, which, five years previously, we gave these Indians gratuitously, and which gratuity they would neither move to nor accept of us as a present!

Appended to this treaty we find an ordinary deed of conveyance from the Tuscaroras to Ogden and Fellows, of all their title to nineteen hundred and twenty acres of land; and from the Senecas a similar deed of conveyance to Ogden and Fellows of all their title to one hundred and sixteen thousand acres of land, all lying in the State of New York, and some of it in the neighborhood of Buffalo, and making altogether, from both tribes, in round numbers about 118,000 acres of land, for which Ogden and Fellows agreed to pay the sum of about two hundred and eleven thousand dollars—*not quite two dollars per acre.* These deeds are honored with a preamble, and recite the important fact that a treaty had been concluded between our commissioner and these Indians. These deeds are otherwise distinguished by being *approved*, not only by the superintendent of Massachusetts, whose duty it probably was to approve them, but they were also approved of by our commissioner—not as a witness, but in his official capacity; and what is still more remarkable, when this treaty came to the Senate, in 1838, for ratification, these deeds came with it.

Well, sir, what next occurred? The treaty was read in the Senate, was properly referred, and then your committee went to work upon it. They found it so *essentially defective*, that it was out of their power to recommend its ratification. The objections to it were communicated, among others, to the Senators from New York. Some alterations in it were suggested

by the War Department, and all agreed, without a dissenting voice in any quarter, so far as I recollect, that it could not be ratified in the form in which it was executed. We amended it, and so thoroughly as to make nearly a new treaty out of it; and in these amendments the Senate concurred, and I believe with unanimity.

While this treaty was before the committee, we heard many complaints from the Indians and others against the treaty. Fraud, unfairness, and bribery, of which *at that time* we had no evidence, were charged; and it was stated that a majority of the chiefs neither approved of nor had signed the treaty, although from the preamble it purported to have been executed in council, and properly assented to. To guard these charges, the Senate *adopted the resolution of the 11th of June*, 1838, *which was recommended by the Committee on Indian Affairs, and which is as follows:*

"*Provided always, and be it further resolved*, (*two-thirds of the Senate present concurring*,) That the treaty shall have no force or effect whatever, as it relates to any of said tribes, nations, or *bands* of New York Indians, nor shall it be understood that the Senate have assented to any of the contracts connected with it, until the same, with the amendments herein proposed, is submitted, and fully and fairly explained, by a commissioner of the United States, *to each of said tribes or bands separately assembled in council, and they have given their free and voluntary assent thereto;* and if one or more of said tribes or bands, when consulted as aforesaid, shall freely assent to said treaty as amended, and to their contract connected therewith, it shall be binding and obligatory upon those so assenting, although other or others of said bands or tribes may not give their assent, and thereby cease to be parties thereto. *Provided further*, That if any portion or part of said Indians do not emigrate, the President shall retain a proper proportion of said sum of four hundred thousand dollars, and shall also deduct from the quantity of land allowed west of the Mississippi such number of acres as will leave to each emigrant three hundred and twenty acres only."

Thus it appears that we sanctioned the treaty of the 15th January, 1838, on the *express condition* that the treaty, as amended by us, should be approved of by a majority of the *chiefs of each tribe separately assembled in open council*, and after it had been by our commissioner fairly and fully explained in *open council*, and by a majority of them freely and voluntarily assented to in open council.

Well, sir, what next? With the treaty, as amended, our commissioner was once more despatched to his red brethren, with whom he had previously been so very successful, to obtain their assent to the treaty in its amended form. He received his instructions on the 9th of July, 1838, and was at his post in the month of August following. He succeeded in obtaining the assent of all the tribes but *the Senecas*. These he found, as usual, a little refractory. He met them in council on the 17th of August, in a council-house he had built for the purpose; and as many of the chiefs were absent, he, at the request of the Indians, adjourned the council for three days. On his return on the 20th, he found his council-house *burnt down*—the work of an incendiary. He built him another, and then fully and fairly explained the treaty and the amendments made to it by the Senate. He found the Senecas decided, not upon the subject of selling us the Green Bay lands, but upon the subject of *emigration*, which to us was a matter of no

consequence. He gives us the decisions in the tribe in a very minute and satisfactory manner. He then tells us that

"It will be recollected that at the time of making the original treaty, providing new homes for these Indians at the west, and the means of removing and subsisting them, another treaty was signed between this tribe and the pre-emption owners, under the supervision of a superintendent from Massachusetts, conveying the Indian rights to their several reservations in New York. That treaty of sale was ratified by the governor and council of Massachusetts. At the late council, it was the sale under this treaty, and not the advantages secured under the one negotiated by me, that formed the principal subject of consideration. The government treaty was generally conceded to be liberal and advantageous; still there appeared to be a settled purpose on the part of some to misrepresent the value of the advantages secured under it, as one means of defeating the other."

Here, Mr. President, we have the whole story, fresh, full, and complete, from the lips of our frank and candid commissioner. *It was the sale to the land company*, brought about, as I have shown you, by bribery and corruption, that has occasioned the failure of our commissioner in perfecting, from this tribe, the purchase of their Green Bay land. Our treaty, he tells us, was considered liberal and advantageous, and with it no fault was found; and I confess it would have been passingly strange to me, if there had been any objections to it.

And now let me ask, if our *real* object had been to purchase the Green Bay land, why was our treaty embarrassed by negotiating with them for their removal beyond the Mississippi? Why not let them remain? they are not in our way. We are not bound in any manner, that I know of, to purchase their lands for these pre emptioners. What have they done for "the State," that we should give them a million or so of dollars, in cash and land, to aid them in their speculations? Sir, our commissioner desired honor, and glory, and promotion; and he was taught to believe, and no doubt truly, that if by negotiation he could succeed in getting those Indians out of New York and over the Mississippi at the expense of the United States, glory, and honor, and promotion would be his reward.

Sir, the Green Bay lands, if ever the subject of *serious* discussion at any time, were all along considered but a trifling matter with either the Indians or our negotiator. But I proceed; for I have yet, sir, a good deal of ground to travel over.

The commissioner tells us, that, "at an early period of the council Marius B. Pierce, then an opponent of the treaty, in public council, proposed to me the following questions:

"1. If the amendments of the treaty were not now assented to, whether I could adjourn the council; and whether, if not adjourned, it could be again convened?

"2. Whether the Senate could recede from its amendments?

"I was also asked, at about the same time, by others in council, whether the deed to the pre-emptive purchasers, being ratified by the governor and council of Massachusetts, was obligatory upon the nation, without further action on the part of the nation? Also, whether the Senate of the United States had any legal jurisdiction over the subject?"

To those questions the commissioner declined giving any answer; and as he has not condescended to tell us why these questions were asked, I will endeavor to supply his omissions, as I feel myself able to do, from the testi-

mony before us. The first question was asked because the opponents of the treaty then had a majority in council against the treaty, and were able to vote it down, and he was apprehensive that the commissioner might keep adjourning the council from day to day, until a majority might be got *in some way or other* to assent to the treaty. He and his friends were then neglecting their private affairs; were poor, without money, and depended for their bread upon their daily labor. They wanted to see the council closed, that they might go home; they were unwilling that the council should be kept open any longer, or convened again after it was closed. These were Pierce's reasons for asking the first question.

He asked the second because he had been told, as an inducement for their agreeing to the treaty, that the Senate would, *if necessary*, recede from its amendments, and that the treaty would be ratified as originally made; and then, in that event, they would lose the *rewards* and *life leases*, &c., which they then had it within their power to obtain from their friends, the generous and liberal minded pre-emptioners.

The third question was asked because they were told the New York land was gone at any rate; that their deeds had been approved by the governor and council of Massachusetts. The commissioner also declined answering this question; but afterwards, "learning that General Dearborn had expressed a *different opinion*," (from that expressed by the head of the Indian bureau, and by Mr. Ward, a clerk of that bureau,) "I informed the council of it, and General Dearborn gave Governor Everett's reasons for his opinions. The Indians were then left to form their own conclusions on the question of title and probable action of the Senate. *I then informed the Indians that, if the interests of the Indians required it*, I believed I had the right, and should adjourn the council to some future day." Yes, sir; and he did adjourn the council. The opinions of Governor Everett respecting the validity of the sale produced this result. The pre-emptioners could no longer frighten them "with the scarecrow" that their lands were gone. This being the case, it became necessary for the pre-emptioners to change their mode of attack; and time was necessary to agree upon the *modus operandi*, and therefore the council was adjourned.

The next entertainment we have of the commissioner is as follows:

"Learning from the discussions in council that many desired to remain longer than five years on their reservations, I induced the agent of the pre-emptive owners, on the 26th of September last, to authorize me in writing to say to the council that he would, on behalf of the pre-emptive purchasers, agree to allow them to occupy their farming lands ten, instead of five years. His proposition is marked No. 30. This offer did not, as *was anticipated*, produce unanimity of feeling. Some said it was their desire to remain for their lives; but that they were willing others might remove if they chose to do so. In connexion with General Dearborn, I requested the agent to offer life leases, free of rent, to all who chose to remain. His offer to do so is marked No. 31. Without consulting with a single individual, a chief in the opposition by the name of Israel Jemison rose and stated that he was authorized to say that the opposition *unanimously* declined the proposition. Knowing that no one had authorized him to speak on a subject but that moment named in council, I did not consider his statement entitled to any respect. No one of the opposition rising to set him right in such a case of palpable falsehood, I became satisfied of the truth of the allegation so often

made, that many *dare* not speak their minds in council, and that compulsion was used to prevent chiefs from signing."

He talks of *fear* and compulsion. Why should they fear? Why should Indian warriors manifest a timidity which, in a virtuous cause, would disgrace even their squaws? They fear because they are in a minority, and know they are doing, *from base and mercenary considerations*, what a majority of their people disapprove of. Their fear is but the palpable evidence of a guilty heart! An honest man, red or white, fears nothing! Cowardice and trembling are the attributes of a guilty conscience!

He tells us that,

"Immediately after communicating and explaining the offer of life leases to all who desired them, I presented the manuscript copy of the amended treaty, to which I had attached a written assent. I informed the council that those who chose to do so could sign it there, and those *who, from fear* or *other cause*, preferred signing at my room in presence of myself, the superintendent from Massachusetts, the agent, and such other persons as might be present, might do so. I then received sixteen signatures, and subsequently at my room, in presence of General Dearborn, thirteen, and two other signatures at the rooms of chiefs who were too unwell to attend council; making in all thirty-one chiefs."

Yes, sir; with all the bribery I have previously alluded to, with *life leases, free of rent, for all who chose to stay, embracing the whole tribe*, we yet find the commissioner unable to get, in *open council*, as he was required to do by the resolution of the 11th June, 1838, but *sixteen signatures of assent*, out of eighty one, to the amended treaty; and, in addition to these sixteen, he obtained afterwards, *not in council*, but at his *private lodgings*, the signatures of assent of thirteen more, and at *their own residence* the signatures of two others; making, in all, but thirty-one, obtained, as before stated, out of eighty-one chiefs belonging to the Seneca nation. Finding this to be the case, he then, on the 2d of October, after laboring, if not praying and fasting, for upwards of forty days in the wilderness with the heathens, informed the *agent of pre-emptioners*, (*not the Indians with whom he was negotiating*)—

"That he should adjourn the council, as there seemed to be no more disposed to sign the assent. A question having been raised, (he tells us) whether the assent had been sufficiently signed or not, (that is, whether thirty one, if there had been no objection to the *manner* of obtaining their signatures, was a majority of eighty-one,) he (the agent of the land company) desired me to adjourn to a future day, and that in the mean time I could report to you."

He adjourned the council to the 15th of November.

"I read them a talk, which is marked No. 39. The Indians who are opposed to emigration did not object to this adjournment; and, in making it, I did what I thought due to them and *to the purchasers*. If the assent is not sufficiently signed, it may be done at a future day, and the emigration party, who have listened to the advice of the government, may be saved from the oppression which would otherwise await them. If there were not signatures sufficient to meet your approbation, and it should turn out that the legal title is in the purchasers, then the condition of the Senecas would be deplorable. They would be without a home, though one had been freely offered to them."

Poor Senecas! how stubborn and stiff necked they are! Why will they not listen to the pathetic advice of the government, so eloquently delivered,

and save themselves from oppression? Why will they not see that if it should so happen that the title to their lands is vested in the purchasers, how deplorable will be their condition? Why will they not see (what no one else but the commissioner could perceive) that if the treaty should not be assented to they would be without a home—without even their Green Bay lands, which they refuse to sell us? What insanity! How unreasonable they are in desiring to retain their ancestral homes and firesides! How cruel and hard-hearted they are in refusing to gratify the *humane* and *benevolent*, and *Indian loving*, and *God serving pre-emptioners!* Oh, Senecas! Senecas!! how you astonish your gray-headed fathers of the Senate!

Mr. President, we now find our commissioner laying aside his poetry and his predictions, and talking mathematically. After stating the number of chiefs who signed the treaty, and their *manner of signing it*, he then puts the question to the Secretary of War to know if it be necessary to have the assent of all the chiefs upon the reservation.

"If so, [he says] it was not sufficiently signed *in my presence.* [And he might have added it was still *less sufficiently* in *open council*, as it was required to be done by the Senate's resolution.] If not, need it be signed by more than a majority of all who at any time attended the council? [He then reminds us of what we would not otherwise probably have thought of—that this is what is usually required in legislative bodies; and reasoning from analogy, the assent is sufficiently signed.] If it requires a majority of all who may have been from time to time, for short periods, at council, it is not in my power to give you the necessary facts whereon to decide."

Now, sir, our most worthy commissioner (who is an ex-member of Congress, and who, on that account, should be presumed to be familiar with the proceedings of deliberative bodies, has lost sight of one very important point in his analogy; which is, that the official acts of members of Congress out of their respective houses (*alias* the councils) are nugatory. Does he not know that if members of Congress were to sign their assent to the passage of bills, or if Senators to the ratification of treaties, at their private rooms or lodgings, as this Indian assent (in part) was signed, it would be nugatory, nonsensical, and unconstitutional? I leave the question to himself to answer. Speaking of analogies, I will go a little further; and as he has said it better than I can say it, I will avail myself of the remarks of Governor Everett upon this subject:

"The treaty-making power [says the Governor] is granted by the constitution in general terms. No modification of its exercise in reference to Indian tribes is recognised, as it would certainly be unconstitutional for the President of the United States to attempt to treat with individual members of any foreign State or government, (not duly authorized to represent such body,) or to attempt to obtain the ratification of a treaty by means of the assent of individuals of the Senate, not duly assembled and acting as such." "I remain of opinion that the constitutionality of attempting to obtain the assent of individual Indian chiefs to the amended treaty in the manner in question is doubtful."

Sir, were ever these old, safe, rational, and salutary rules dispensed with by our government in treating with any nation, foreign or domestic, civilized or savage? I know of no dispensation of those time-honored and customary forms in any case whatever. I hold, that if it be necessary to treat at all, we should treat according to the ordinary and constitutional forms.

The commissioner concludes his report by telling us, what we could well

have imagined, that all the expenses of the amended treaty had been defrayed by the United States; and thinks if any further expenses are to be incurred, the pre emption purchasers should pay *their part of it.* He ought to have said the *whole of it*, as it would all be for their private benefit.

The report of General Dearborn to Governor Everett corresponds, in the main, with that of Mr. Gillet, and therefore I shall not be considered, I hope, as treating that able State paper with disrespect, if I dispose of it very briefly.

General Dearborn tells us that

"Among the numerous and very cogent reasons which were urged by the commissioner for inducing the Indians to assent to the amended treaty, during the progress of the long protracted deliberations, he observed that he had been directed by the officer at the head of the bureau of the Indian department to state, as his opinion, that the contract of the Indians for the sale of their right of possession to the Ogden company was complete, and might be carried into effect, whether the treaty with the United States was ratified or not.

"As this was the only statement made by the commissioner to which I did not fully concur, I informed the chiefs it became my duty to announce to them that the governor of Massachusetts entertained a different view of the subject; and was authorized to state, that unless the amendments made to the treaty were assented to, he considered the contracts for the sale of their right of possession null and void, but that he did not undertake, peremptorily, to decide a question of such great importance; that it was one which required the most grave and deliberate consideration, and must ultimately be referred to the highest judicial tribunals of the country, if it should be insisted on by the pre emptioners.

"It was, therefore, for the chiefs to determine how far their decision was to be influenced by the doubtful position in which the subject was placed, from these conflicting opinions; for if they should reject the treaty, and the contracts for the sale of their reservations were declared binding, they would be left without a home."

This disclosure needs no comment. The unfairness and reprehensibility, on the part of the commissioner, of the use of such terrible and unsound arguments to the ignorant Senecas, is obvious to all. The General also tells us that

"The commissioner was induced to afford the last named accommodation in consequence of having been informed that there were several chiefs who were in favor of emigration, but were afraid to sign the treaty publicly, as they had been threatened with fatal consequences if they did. Intimidation has been extensively used by the leaders and their partisans in the opposition, for the purpose of defeating the wishes of those who are desirous of removing to the west. The commissioner was informed by the chiefs of the Tuscaroras that threats had been sent to them from the Tonawanda reservation, to deter them from ratifying the treaty.

"It had been repeatedly represented, during the last council and the present, that there were a number of Indians, and especially among the aged, who were desirous to remain here, and who often observed: 'Let the young go to the new country, beyond the great river, if they wish, but we are too old to begin new establishments; we had rather live and die where we have so long resided, on the land of our fathers.' To obviate this objection to the ratification of the treaty, the commissioner recommended to

the pre-emptioners that they should offer to give leases for life, free of rent, to such Indians as were anxious to remain, and I concurred in opinion as to the propriety of that measure, believing that it would not only be just towards the Indians, but considered as beneficent, magnanimous, and liberal on their part, let the result be what it may; that I considered it important it should be done in open council, and made general in its operation, to preclude every ground of complaint or misrepresentation.

"The pre-emptive agents having been finally induced to adopt that measure, a communication was made to the commissioner for carrying it into effect, which he laid before the assembled chiefs immediately after he had concluded his remarks on the method in which the assent was to be given to the treaty.

"One of the chiefs, in behalf of those in the opposition, then rose and stated that they did not desire to avail themselves of the offer which had just been made by the pre-emptive owners; and observed that they wished the council might be kept open after those had signed the treaty who were present, as they desired to execute, in the presence of the commissioner of the United States and superintendent of Massachusetts, a written declaration of their dissent. The commissioner replied that he was not authorized to authenticate any document other than such as he had been specially directed to submit for their consideration, and therefore could not with propriety keep the council open for the purpose which had been stated.

"I was then reminded by another chief of the opposition party that I had informed them on the opening of the council, although I was not instructed to advise them either to remain where they were, or to emigrate to the Indian territory in the west, I had been sent there by the governor of Massachusetts to see that impartial justice was done to the Seneca nation of Indians; and that I had observed, on another occasion, I should not be deterred by the flash of the tomahawk or the crack of the rifle in the independent and honest discharge of my duty; and as I should be a witness to such of the chiefs as were in favor of emigration, who signed the treaty, 'MY HEAD WOULD NOT BE STRAIGHT' unless I also verified their proceedings; and then asked me if I would remain for that purpose.

"I answered, that I considered it my duty to comply with all proper requests from any portion of the Seneca Indians, so far as it was in my power to do so; that I should, with great pleasure, remain and witness the signatures to the declaration which it was proposed to execute after the commissioner of the United States retired from the council house.

"As many of the emigration chiefs were absent, only sixteen names were affixed to the treaty, in council, on the 28th ult.; and immediately after the adjournment the written declaration of the chiefs opposed to emigration was produced and signed in my presence."

Here we find that our commissioner refused to receive the list of the names of the dissenting chiefs, or what they called their protest, which was tendered him *in open council.* But General Dearborn, who is a military man—a man of mettle—who is not, as he informs us, to be "deterred from a faithful discharge of his duty by the flash of the tomahawk or the crack of the rifle," did receive and witness this dissent, or protest; and he forwarded it, according to the request of the Senecas, to Governor Everett. This protest contained the names of *sixty chiefs*, out of eighty-one, and is to be found in our printed document, at page 174. Here ends my review of the reports of Messrs. Gillet and Dearborn upon their first embassy. They

had another, which I will briefly dispose of; but, before doing so, it will be necessary to notice the official action of the head of the Indian bureau upon our commissioner's report. Let us now see how Mr. Crawford viewed this matter. Mr. Crawford says, in his letter to the Secretary of War of the 29th of October, 1838—

"The only difficulty in the way of regarding the acts of the Indians as meeting the resolution of the Senate, that appears to me insuperable, concerns the assent reported to have been given by the Senecas. There are in this band seventy-eight chiefs. The assent of sixteen was obtained in council, of thirteen at the room of the commissioner, and of two others at their own quarters, making thirty-one; and since the arrival of Mr. Gillet in Washington, he has received the written assents of five more, properly authenticated; making an aggregate of thirty-six. The commissioner reports that not more than sixty-one chiefs attended the council at one time, and that thirty-six is more than one-half the number of chiefs that probably gave their attendance in council at all the meetings: two of the chiefs, it is said, hold a questionable authority, and two have removed from the country. Is this an assent of the tribe by the chiefs? The authority of the band resides in *all* the chiefs; and although uniformity in their views can scarcely be expected, at least a majority of the chiefs, not of those who appeared in council, but of all upon the reservation, it strikes me, should consent, to constitute the 'free and voluntary assent' *of the tribe.* Deduct the two who, it is represented, exercise a doubtful authority, and the two who have removed, and seventy-four chiefs of the Senecas remain, of whom, including the five whose assents were not attached to the modified treaty, but transmitted by mail, and we have thirty-six only. The last five, in my opinion, cannot be reckoned; but I have not noted more particularly the defective manner of their assenting, because it was, in the view taken, unimportant. Perhaps, too, it *was intended by the Senate that they should consent in council.* Mr. Gillet states in his report that a printed copy of the treaty and amendments was handed him, to which were affixed the signatures of thirty-five chiefs and one hundred and seventeen warriors, declaring their assent thereto. *This writing is dated six days before the assent in council was obtained, preceded, as I presume, by the full explanations of the commissioner; and although witnessed by James Stryker, United States sub-agent, and H. P. Wilcox, and no doubt fairly obtained,* (for it embraces the names affixed to the assent prepared by Mr. Gillet, and four additional ones,) *can scarcely, it seems to me, be considered as within the intent of the Senate.* If, however, you should think differently, the four chiefs added to the whole number first mentioned would give forty assenting chiefs out of seventy-eight. Even if the legal right was as clear the one way as it appears to be the other, would it be expedient to act upon it? The Senecas are evidently divided into two very nearly equal parties—the one for, and the other against the treaty—splitting on the subject of emigration, which is much to be regretted. Their own true interest and the liberal views of the government they do not comprehend; and however desirable it is that they should leave New York, which would be the probable but *not the necessary consequence of the ratification of the treaty,* one-half of them appear to be otherwise determined for the present. The report and accompanying papers show that much excitement prevails among them on the subject, and make it too certain that but for bad advice they would accede to the proposed terms, which perhaps a renewed application might find them willing to do.

For this last purpose the door is still open, as the council was adjourned to the 15th of November next."

This letter of Mr. Crawford construes, and *properly construes*, the Senate's resolution of the 11th June, 1838. Having submitted his letter to the Secretary of War, containing his opinions, &c., the Secretary advised upon the subject, and gave Mr. Crawford instructions for *future operations*, and these instructions Mr. Crawford embodied in his letter to Mr. Gillet of the 30th of October, 1838, and which is as follows, viz:

"SIR: Your report and the treaty with the New York Indians, assented to as amended in the Senate of the United States, have been submitted to the Secretary of War. He is of opinion that the consent of a majority of *all* the Seneca chiefs must be obtained; but that, as you have heretofore met the requirement of the Senate, by full explanations to them in council, you may proceed to the Seneca reservations, *and there obtain the assent of such Indians as have not heretofore given it.*

"You are, accordingly, authorized and requested, at your earliest convenience, to proceed to the Seneca reservation in New York, and to carry out the above views. Your service among the people qualifies you fully for the discharge of this duty, and gives assurance of its fair, honest, and capable performance.

"Very respectfully, your most obedient servant,

"T. HARTLEY CRAWFORD.

"Hon. R. H. GILLET, *now at Washington.*"

Here we have, sir, what I consider a false step in this negotiation, which was not warranted by the resolution of the 11th of June, 1838, nor sanctioned by usage or sound policy, in making treaties with any nation or Indian tribe whatever. Here, sir, is the red book, which contains all of our Indian treaties from the earliest period to the present day, and I boldly challenge any Senator to show me in it a single treaty ever made by us with an Indian tribe, which was not made with them *in council*, or else by delegates duly authorized by the council to make such treaty. Sir, the McIntosh treaty, which was made at the Indian Spring, in Georgia, forms no exception to the principle I have here laid down. That treaty purported to have been made *in council*, and to have been assented by a majority of the chiefs, and to have been agreeable to a majority of the Creeks. These important, and leading, and controlling facts were *vouched for* and *asserted* by our commissioner, on that occasion, in his report. Relying upon the truth of that statement, the Senate *ratified that treaty;* and what followed? McIntosh was murdered, and his followers were driven, for refuge and safety, out of the Creek nation into the white settlements. President Adams refused to carry that treaty into effect; and, at the following session of Congress, laid the *facts* of that treaty before the Senate; and what did the Senate do with it? The Senate investigated it, and, finding it had been made by a *minority* of the chiefs, and by bribery and unfair means, the Senate declared it *null and void;* and yet, sir, with a knowledge of the proceedings of the Senate upon that treaty, we find, by Mr. Crawford's instructions to Mr. Gillet, which I have just read, that our commissioner was authorized to proceed, for a third time, to the Seneca reservation, and there obtain "the assent of such Indians as had not heretofore given it."

This mode of hunting up Indians, and of getting their signatures *out of council*, in the woods, or anywhere, wheresoever they may be found, seems

not to have been very cordially approved of by General Dearborn; and upon ascertaining this fact, we find Mr. Crawford addressing another letter to Mr. Gillet, of the 19th of November, 1838, in which he says: "The instructions given you when here, it seems to me, *would justify your assembling of the Senecas*, should *you deem it necessary*. But to remove any doubt, I am directed by the Secretary of War to say *that if General Dearborn desires it*, you are authorized, *at your discretion*, to hold such council."

Here we find it a *matter of doubt* whether Mr. Gillet's instructions would authorize him to convene a council, and it is stated that *he is not to convene the council* unless General Dearborn *should desire it*, and not even then unless *at his discretion*. And he never did convene the council, although it will be remembered that, on the 20th of October previous, the commissioner had not closed the council which he was then holding, but had publicly adjourned it to the 15th of November. This public pledge, which we find *studiously violated*, seems to have given the parties concerned in it no sort of uneasiness, or to have needed any sort of apology. This violation of a public pledge by a duly authorized commissioner is justified, though not avowed, on the ground, I suppose, that we are not bound, according to modern ethics, to keep faith with heretics or infidels; and we are called upon, as the high priests of the United States, on the alleged but fallacious pretext of *expediency*, to endorse this code of morality.

Mr. Gillet says, in his report upon this mission, that "*he visited such places on the reservations* as he was desired to by any of the chiefs. Eight of the signatures were received at *his room in Buffalo*, one at his former lodgings at Buffalo creek, and one at the residence of the sub-agent." These ten, added to the thirty-one before received, make forty-one altogether, which is a majority of one, and then he insists that the treaty had been assented to: if not according to the resolution of the Senate, it was assented to according to the instructions of the War Department.

General Dearborn's report in the main varies but little from that of Mr. Gillet. He states, however, that he thought there ought to have been a council, but seems to have acquiesced in the other mode, as Mr. Gillet showed him the instructions he had received of Mr. Crawford of the 13th of October, by which he considered himself *prohibited from calling a council*. It is *denied* that Mr. Gillet said any thing to General Dearborn about his *subsequent instructions* of the 12th of November, 1838. As Mr. Gillet no doubt intended to avail himself of the *discretion these instructions* gave him, and finding the pliant New Englander acquiescing in his views of expediency, he never did inform General Dearborn of those instructions. General Dearborn, in his letter to Governor Everett of the 19th January last, says he *never saw or heard of the instructions of Mr. Crawford to Mr. Gillet of the 12th of November*, 1838; and yet the credulous General, after he had found out the existence of such *secret instructions* some time after the negotiation was ended, and after the whole proceedings were published, seems to take no offence at the circumstance, but states that he believes (a belief, to say the least of it, which shows on his part a marvellous credulity) that his not seeing those instructions was *undesigned* and *accidental*.

Mr. Crawford, in his letter to the Secretary of War of the 15th of January, 1839, upon the subject of the last reports of Mr. Gillet and General Dearborn, says:

"That ten additional assents had been obtained, but that two of which

are not manifested by the *party appearing* and *signing in person.* The reasons given for their not appearing and signing in person the treaty as modified are, that *one of them was absent*, and the other prevented from doing so by the acts of chiefs opposed to the treaty."

These are important details, and are not to be found in the printed report of Mr. Gillet, before whom these transactions occurred, and which probably accounts for the fact that several of the chiefs, whose signatures appear to the treaty, deny ever signing or assenting to the treaty, or of *authorizing any other person to do so for them.* I say important, because it will be observed that those two signing by attorney constitute what is claimed as a majority of the chiefs. Mr. Crawford concludes his letter by submitting the treaty, signed in the manner we have seen, by forty-one chiefs, for the consideration of the Secretary of War.

The Secretary of War reports upon this treaty to the President, of the 19th January, 1839, and recommends the President to submit it to the Senate. Here let me remark that the President is authorized by the terms of the resolution of the Senate of the 11th of June, 1838, to promulge this treaty without again consulting the Senate about it, *whenever* he is satisfied that it has been assented to according to the true meaning and intent of the resolution of the 11th of June, 1838. The President deemed it advisable, for reasons set forth in his message to the Senate of the 21st January, 1839, not to promulge this treaty, but he submitted it again for our advice. By doing so he has shown that our confidence had not been misplaced. He has shown most abundantly that though he appreciated the wishes and interests of New York and of Massachusetts, he was at the same time not disposed to gratify even those two powerful States at the expense and sacrifice of the just claims of even a small fragment of wretched and miserable Indians. He had the power to speak but a single word, and close up this controversy forever. But, sir, he wisely preferred adhering to the immutable and eternal principles of justice, to the pecuniary gains of Massachusetts or New York. He preferred preserving, with scrupulous fidelity, our national character, and honor and honesty, to the contemptible spoils and laurels which might be gathered in triumphing, by forced and unlawful means, over a handful of ignorant savages. Sir, he resisted importunities and refused to promulge the treaty, and sent it back to the Senate, to his impartial constitutional advisers, for their consideration. And how did the Senate dispose of it? Let the report of the Committee on Indian Affairs of the last session, and the resolution of the 2d of March last, founded upon that report, answer the question. What is the resolution of the 2d of March?

"*Resolved*, That whenever the President of the United States shall be satisfied that the assent of the Seneca tribe of Indians has been given to the amended treaty of June 11, 1838, with the New York Indians, according to the true intent and meaning of the resolution of the Senate of the 11th June, 1838, the Senate recommend that the President make proclamation of said treaty, and carry the same into effect."

Sir, we adopted that resolution for the purpose of giving the parties interested another opportunity, which they desired, to get the treaty assented to by the Senecas. This was done on the 2d of March, the day before we adjourned the last Congress.

On the 7th of that month, four days after the adjournment, and before

the treaty we had thus disposed of had left the Secretary's office, so far as I know, but certainly before it had left the War Department, we find Nath. T. Strong, a Seneca chief, in a letter to the President, misrepresenting the views and proceedings of the Senate upon that treaty, and urging him to ratify it. On the 9th of March we find Mr. Allen, the agent of the land company, of whom I have before spoken, in his letter to the President urging him to ratify the treaty, which the Senate had refused to do but seven days before. He furnishes the President the same list of chiefs we had had before us, which he contended was a majority of the Senecas.

On the 11th we find Mr. Wilcox, another prominent individual throughout the whole of this long protracted negotiation, in his letter to the President, urging him to ratify the treaty, and endorsing the truth of Allen's statement relative to the number of chiefs.

On the 11th we find Mr. Stryker, the sub agent, in his letter to the President, furnishing a list of the chiefs with the same view.

On the 4th of April we have a letter to the President from the Ogden Land Company, with the same view: and on the 6th of March, two days after we adjourned, we find that two of our brother Senators, Messrs. Tallmadge and Norvell, furnished to this same Mr. Allen, for the purpose of showing (what they no doubt believed, and for which I attach no blame) that the requirements of the Senate, by the resolution of the 11th of June, 1838, that the treaty should be assented to in open council, were dispensed with by the resolution of the 2d of March. I can only say that that was not my understanding of the resolution of the 2d of March. What is that resolution? The resolution of the 2d of March authorized the President to make proclamation of the Seneca treaty *whenever* he should be satisfied that the amended treaty had been assented to *according to the true intent and meaning of the resolution of the 11th June*, 1838. And how was that resolution of the 11th of June construed? Let the report of the Committee on Indian Affairs answer. And how was it construed by the *commissioner* and by the War Department, until it was found *expedient for them to give it a different construction?* Let the history of this negotiation, which the published documents fully furnish, answer the question. How was it construed by the President? Let his message of the 14th of January last answer the question.

Construing these resolutions as we did, the President refused to promulge the treaty, notwithstanding all the efforts made to induce him to do so. He despatched the Secretary of War last August to Buffalo, for the purpose of submitting the amended treaty to the Senecas, containing the views of the Senate, as reaffirmed by the resolution of the 2d March. He convened a council for this purpose; and what was the result? The Secretary has given us nothing but the speeches of himself, of General Dearborn, of the agent, and of the Indian chiefs, for and against the treaty. But the President, in the message of the 14th of January last, transmitting this treaty again, and for the third time, to the Senate for *ratification*, has given us the result of the Secretary's negotiation in *three italicised* lines, (multum in parvo;) which is, that "*no advance towards obtaining the assent of the Senecas to the amended treaty, in council, was made, nor can a majority of them in council be now obtained.*"

I have now, sir, endeavored to give the Senate a full and impartial, though I fear a tedious history of what I consider the important points of

this whole matter from the beginning up to this day; and in doing so I have based my statements upon the official published documents emanating from the public agents and officers of the government. I have not relied (because such testimony, however unjustly in some instances, might be cavilled at) upon Indian statements and Indian affidavits. Nor have I relied for any thing I have said upon the written statements of the Quakers, who are viewed by some gentlemen as officious intruders and intermeddlers in this affair; not because I do not consider their statements as entitled to the fullest belief, but because I have not found such reliance necessary.

Now, sir, having wholly failed, after two years of expense and trouble, of trials and tribulations, backed by the potent influence of New York and Massachusetts, and of the *active members* of the land company and their *rewarded* chiefs, to obtain, in open council or otherwise, the voluntary assent of a majority of the Seneca chiefs to the very liberal treaty we are now considering—a treaty by which we agree to give to the Senecas, for their part of the Green Bay lands, their portion of the $400,000 in cash, and their portion of the 1,800,000 acres of land west of the State of Missouri—having failed in all this, what shall we do? Shall we throw our treaty in the fire and *take by force* what we have been unable to accomplish by negotiation? It is a grave question for the Senate to decide If history is to be credited, it is not an unusual occurrence for the weak and helpless to be robbed and preyed upon by powerful civilized communities *professing* Christianity. Sir, when Cæsar demanded the public treasure of Rome, he scorned the production of any other warrant than his sword. And if we *really* want the lands of the Senecas for our masters—for this huge and overgrown land company—we have but to use a similar argument, and no doubt it will be attended with similar success. Sir, if we decide upon such a step, let us accomplish our purpose in the bold spirit of the valiant highwayman, and not by the trick and trap, the shuffling and legerdemain, of a spurious treaty. If we have determined to give up our honesty, I hope we shall at least preserve our reputation for courage.

By a census of the Senecas which has been furnished us, it appears that not only a majority of the chiefs, but also about fourteen-fifteenths of the whole population, are against the treaty and opposed to emigration. This proportion we find existing now among them after all the influences I have before alluded to have been brought to bear upon them for upwards of two years: and, sir, what is more, after endeavoring, in addition to all this, to *starve them into submission* by withholding from them, until late in the summer of 1838, their annuity of 1837. I will read to the Senate for their information the letter of Mr. Harris of the 14th of March, 1838:

"WAR DEPARTMENT,
"*Office of Indian Affairs, March* 14, 1838.

"SIR: In regard to the inquiries contained in the honorable Mr. Marvin's letter of the 2d instant, referred by you to this office for a report, I beg leave to observe that it is known here that the Seneca annuity for 1837 has not been paid. Remittances were made for the purpose in June last; but owing to various causes, among which were the absence of an exploring party to the west, *the pendency of a negotiation with the New York Indians*, and the engagement of the disbursing agent in the suppression of the hostile movements on the Canada border, the payment has not been made. *The*

sub-agent, now here, informs me that it is not desirable it should be made until the return of the delegation now in this city.

"Very respectfully, your most obedient servant,

"C. A. HARRIS, *Commissioner.*

"Hon. J. R. POINSETT,
"*Secretary of War.*"

Sir, the Indians now are, as they have been from the beginning, agitated, excited, and unhappy about this treaty; and I now hope that on this day the Senate will quiet their agonizing apprehensions by finally disposing of it—by ratifying or rejecting it.

I had thought the treaty an advantageous one to the Indians. I think so still. But I am not disposed to force upon them a measure, though calculated, as I believe, to redound to their advantage, which they *literally abhor.* Whenever they may manifest a disposition to go westward, I for one will be willing to give them a home. But, in any future treaty we may have with them, should this one be rejected, I hope we shall have nothing to do with the Massachusetts land company. Let this company extinguish their right of occupancy themselves. And I here call upon those Senators who are so opposed to monopolizing companies and corporations—so averse to paying State, or company, or corporation debts, with public money or public-lands, for objects of State or company purposes *exclusively*—to stand by me on this trying occasion, and prevent such a conversion of the public treasure to such unworthy purposes—to local purposes, in which we have not a shadow of interest.

We have had before us a great mass of testimony (*ex parte* always) upon both sides, criminating and recriminating each other. We have looked over it all; and we of the committee congratulate ourselves upon being able to make up our minds upon the merits of this treaty from the fullness of our official documents, without relying in any great degree upon this *ex parte* testimony.

I conclude, Mr. President, by expressing the hope that the Senate will adopt the resolution reported by the Committee on Indian Affairs, which is a resolution to reject the treaty.

D.

Resolution by the Senate—Treaty with the New York Indians—Protest of Tonawanda chiefs, &c.

Resolved, further, (two-thirds of the Senators present concurring,) That the Senate advise and consent to the ratification of the supplemental article to the treaty concluded at Buffalo creek, in the State of New York, January 15, 1838, which was made at the council house of St. Regis on the 13th day of February, 1838: *Provided,* The chiefs and headmen of the St. Regis Indians residing in New York will, in general council, accept of and adopt the aforesaid treaty, as modified by the preceding resolution of ratification.

Provided always, and be it further resolved, (two-thirds of the Senate present concurring,) That the treaty shall have no force or effect whatever, as it relates to any of said tribes, nations, or bands of New York Indians,

nor shall it be understood that the Senate have assented to any of the contracts connected with it until the same, with the amendments herein proposed, is submitted, and fully and fairly explained, by a commissioner of the United States, to each of said tribes or bands separately assembled in council, and they have given their free and voluntary assent thereto. And if one or more of said tribes or bands, when consulted as aforesaid, shall freely assent to said treaty as amended, and to their contract connected therewith, it shall be binding and obligatory upon those so assenting, although other or others of said bands or tribes may not give their assent, and thereby cease to be parties thereto: *Provided, further*, That if any portion or part of said Indians do not emigrate, the President shall retain a proper proportion of said sum of four hundred thousand dollars, and shall also deduct from the quantity of land allowed west of the Mississippi such number of acres as will leave to each emigrant three hundred and twenty acres only.

Attest: ASBURY DICKINS, *Secretary.*

TREATY WITH THE NEW YORK INDIANS, AS AMENDED BY THE SENATE, AND ASSENTED TO BY THE SEVERAL TRIBES, 1838.

Articles of a treaty made and concluded at Buffalo creek, in the State of New York, the fifteenth day of January, in the year of our Lord one thousand eight hundred and thirty eight, by Ransom H. Gillet, a commissioner on the part of the United States, and the chiefs, headmen, and warriors of the several tribes of New York Indians assembled in council, witnesseth:

Whereas the Six Nations of New York Indians, not long after the close of the war of the Revolution, became convinced, from the rapid increase of the white settlements around, that the time was not far distant when their true interest must lead them to seek a new home among their red brethren in the west: and whereas this subject was agitated in a general council of the Six Nations as early as one thousand eight hundred and ten, and resulted in sending a memorial to the President of the United States, inquiring whether the government would consent to their leaving their habitations, and their removing into the neighborhood of their western brethren; and if they could procure a home there, by gift or purchase, whether the government would acknowledge their title to the lands so obtained in the same manner it had acknowledged it in those from whom they might receive it; and, further, whether the existing treaties would, in such a case, remain in full force, and their annuities be paid as heretofore: and whereas, with the approbation of the President of the United States, purchases were made by the New York Indians from the Menomonie and Winnebago Indians of certain lands at Green Bay, in the Territory of Wisconsin, and, after much difficulty and contention with those Indians concerning the extent of that purchase, the whole subject was finally settled by a treaty between the United States and the Menomonie Indians, concluded in February, one thousand eight hundred and thirty one, to which the New York Indians gave their assent on the seventeenth day of October, one thousand eight hundred and thirty-two: and whereas, by the

provisions of that treaty, five hundred thousand acres of land are secured to the New York Indians of the Six Nations, and the St. Regis tribe, as a future home, on condition that they all remove to the same within three years, or such reasonable time as the President should prescribe: and whereas the President is satisfied that various considerations have prevented those still residing in New York from removing to Green Bay, and, among other reasons, that many who were in favor of emigration preferred to remove at once to the Indian territory, which they were fully persuaded was the only permanent and peaceable home for all the Indians, and they therefore applied to the President to take their Green Bay lands, and provide them a new home among their brethren in the Indian territory: and whereas the President being anxious to promote the peace, prosperity, and happiness of his red children, and being determined to carry out the humane policy of the government in removing the Indians from the east to the west of the Mississippi, within the Indian territory, by bringing them to see and feel, by his justice and liberality, that it is their true policy and for their interest to do so without delay:

Therefore, taking into consideration the foregoing premises, the following articles of a treaty are entered into between the United States of America and the several tribes of the New York Indians, the names of whose chiefs, headmen, and warriors are hereto subscribed, and those who may hereafter give their assent to this treaty in writing within such time as the President shall appoint:

General provisions.

Article 1. The several tribes of New York Indians, the names of whose chiefs, headmen, warriors, and representatives are hereunto annexed, in consideration of the premises above recited, and the covenants hereinafter contained, to be performed on the part of the United States, hereby cede and relinquish to the United States all their right, title, and interest to the lands secured to them at Green Bay by the Menomonie treaty of one thousand eight hundred and thirty-one, excepting the following tract, on which a part of the New York Indians now reside: beginning at the southwesterly corner of the French grants at Green Bay, and running thence, southwardly, to a point on a line to be run from the Little Cocaclin, parallel to a line of the French grants, and six miles from Fox river; from thence on said parallel line northwardly, six miles; from thence eastwardly, to a point on the northeast line of the Indian lands, and being at right angles to the same.

Art. 2. In consideration of the above cession and relinquishment on the part of the tribes of the New York Indians, and in order to manifest the deep interest of the United States in the future peace and prosperity of the New York Indians, the United States agree to set apart the following tract of country, situated directly west of the State of Missouri, as a permanent home for all the New York Indians now residing in the State of New York, or in Wisconsin, or elsewhere in the United States, who have no permanent homes; which said country is described as follows, to wit: beginning on the west line of the State of Missouri, at the northeast corner of the Cherokee tract, and running thence north along the west line of the State of Missouri, twenty-seven miles, to the southerly line of the Miami lands; thence west, so far as may be necessary, by running a line at right angles, and parallel to the west line aforesaid, to the Osage lands; and thence east-

erly, along the Osage and Cherokee lands, to the place of beginning, to include one million eight hundred and twenty-four thousand acres of land, being three hundred and twenty acres for each soul of said Indians, as their numbers are at present computed, to have and to hold the same in fee simple to the said tribes or nations of Indians, by patent from the President of the United States, issued in conformity with the provisions of the third section of the act entitled "An act to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the Mississippi," approved on the twenty-eighth day of May, eighteen hundred and thirty, with full power and authority in the said Indians to divide said lands among the different tribes, nations, or bands, in severalty, with the right to sell and convey to and from each other, under such laws and regulations as may be adopted by the respective tribes, acting by themselves or by a general council of the said New York Indians, acting for all the tribes collectively. It is understood and agreed that the above described country is intended as a future home for the following tribes, to wit: the Senecas, Onondagas, Cayugas, Tuscaroras, Oneidas, St. Regis, Stockbridges, Munsees, and Brothertowns, residing in the State of New York, and the same is to be divided equally among them, according to their respective numbers, as mentioned in a schedule hereto annexed.

Art. 3. It is further agreed that such of the tribes of the New York Indians as do not accept and agree to remove to the country set apart for their new homes within five years, or such other times as the President may from time to time appoint, shall forfeit all interest in the lands so set apart to the United States.

Art. 4. Perpetual peace and friendship shall exist between the United States and the New York Indians; and the United States hereby guaranty to protect and defend them in the peaceable possession and enjoyment of their new homes, and hereby secure to them in said country the right to establish their own form of government, appoint their own officers, and administer their own laws; subject, however, to the legislation of the Congress of the United States regulating trade and intercourse with the Indians. The lands secured to them by patent under this treaty shall never be included in any State or Territory of this Union. The said Indians shall also be entitled, in all respects, to the same political and civil rights and privileges that are granted and secured by the United States to any of the several tribes of emigrant Indians settled in the Indian territory.

Art. 5. The Oneidas are to have their lands in the Indian territory, in the tract set apart for the New York Indians, adjoining the Osage tract, and that hereinafter set apart for the Senecas; and the same shall be so laid off as to secure them a sufficient quantity of timber for their use. Those tribes whose lands are not specially designated to this treaty are to have such as shall be set apart by the President.

Art. 6. It is further agreed that the United States will pay to those who remove west, at their new homes, all such annuities as shall properly belong to them. The schedules hereunto annexed shall be deemed and taken as a part of this treaty.

Art. 7. It is expressly understood and agreed that this treaty must be approved by the President and ratified and confirmed by the Senate of the United States before it shall be binding upon the parties to it. It is further expressly understood and agreed that the rejection by the President and

Senate of the provisions thereof applicable to one tribe or distinct branch of a tribe shall not be construed to invalidate as to others; but as to them it shall be binding, and remain in full force and effect.

ART. 8. It is stipulated and agreed that the accounts of the commissioner and expenses incurred by him in holding a council with the New York Indians, and concluding treaties at Green Bay and Duck creek, in Wisconsin, and in the State of New York, in 1836, and those for the exploring party of the New York Indians in 1837, and also the expenses of the present treaty, shall be allowed and settled according to former precedents.

Special provisions for the St. Regis.

ART. 9. It is agreed with the American party of the St. Regis Indians that the United States will pay to the said tribe, on their removal west, or at such time as the President shall appoint, the sum of five thousand dollars, as a remuneration for moneys laid out by the said tribe, and for services rendered by their chiefs and agents in securing the title to the Green Bay land, and in removal to the same, the same to be apportioned out to the several claimants by the chiefs of the said party and a United States commissioner, as may be deemed by them equitable and just. It is further agreed that the following reservation of land shall be made to the Rev. Eleazer Williams, of said tribe, which he claims in his own right and in that of his wife, which he is to hold in fee simple, by patent from the President, with full power and authority to sell and dispose of the same, to wit: beginning at a point in the west bank of Fox river, thirteen chains above the old mill-dam, at the rapids of the Little Cocaclin; thence north fifty-two degrees and thirty minutes west, two hundred and forty chains; thence north thirty-seven degrees and thirty minutes east two hundred chains; thence south fifty-two degrees and thirty minutes east, two hundred and forty chains, to the bank of Fox river; thence up along the bank of Fox river to the place of beginning.

Special provisions for the Senecas.

ART. 10. It is agreed with the Senecas that they shall have for themselves and their friends, the Cayugas and Onondagas, residing among them, the easterly part of the tract set apart for the New York Indians, and to extend so far west as to include one half section (three hundred and twenty acres) of land for each soul of the Senecas, Cayugas, and Onondagas, residing among them; and if, on removing west, they find there is not sufficient timber on this tract for their use, then the President shall add thereto timber land sufficient for their accommodation, and they agree to remove from the State of New York to their new homes within five years, and to continue to reside there. And whereas, at the making of this treaty, Thomas L. Ogden and Joseph Fellows, the assignees of the State of Massachusetts, have purchased of the Seneca nation of Indians, in the presence and with the approbation of the United States commissioner, appointed by the United States to hold said treaty or convention, all the right, title, interest, and claim of the said Seneca nation to certain lands, by a deed of conveyance, a duplicate of which is hereunto annexed; and whereas the consideration money mentioned in said deed, amounting to two hundred and two thousand dollars, belongs to the Seneca nation, and the said nation

agrees that the said sum of money shall be paid to the United States, and the United States agree to receive the same, to be disposed of as follows: the sum of one hundred thousand dollars is to be invested by the President of the United States in safe stocks for their use, the income of which is to be paid to them at their new homes annually, and the balance, being the sum of one hundred and two thousand dollars, is to be paid to the owners of the improvements on the lands so deeded, according to an appraisement of said improvements, and a distribution and award of said sum of money, among the owners of said improvements, to be made by appraisers hereafter to be appointed by the Seneca nation, in the presence of a United States commissioner, hereafter to be appointed, to be paid by the United States to the individuals who are entitled to the same, according to said appraisal and award, on their severally relinquishing their respective possessions to the said Ogden and Fellows.

Special provisions for the Cayugas.

Art. 11. The United States will set apart for the Cayugas, on their removing to their new homes at the west, two thousand dollars, and will invest the same in some safe stocks, the income of which shall be paid them annually at their new homes. The United States further agree to pay to the said nation, on their removal west, two thousand five hundred dollars, to be disposed of as the chiefs shall deem just and equitable.

Special provisions for the Onondagas residing on the Seneca reservations.

Art. 12. The United States agree to set apart for the Onondagas, residing on the Seneca reservations, two thousand five hundred dollars, on their removing west, and to invest the same in safe stocks, the income of which shall be paid to them annually at their new homes. And the United States further agree to pay to the said Onondagas, on their removal to their new homes in the west, two thousand dollars, to be disposed of as the chiefs shall deem equitable and just.

Special provisions for the Oneidas residing in the State of New York.

Art. 13. The United States will pay the sum of four thousand dollars, to be paid to Baptiste Powlis and the chiefs of the first Christian party residing at Oneida; and the sum of two thousand dollars shall be paid to William Day and the chiefs of the Orchard party residing there, for expenses incurred and services rendered in securing the Green Bay country and the settlement of a portion thereof; and they hereby agree to remove to their new homes, in the Indian territory, as soon as they can make satisfactory arrangements with the governor of the State of New York for the purchase of their lands at Oneida.

Special provisions for the Tuscaroras.

Art. 14. The Tuscarora nation agree to accept the country set apart for them in the Indian territory, and to remove there within five years, and continue to reside there. It is further agreed that the Tuscaroras shall have their lands in the Indian country at the forks of the Neosho river;

which shall be so laid off as to secure a sufficient quantity of timber for the accommodation of the nation. But if, on examination, they are not satisfied with this location, they are to have their lands at such place as the President of the United States shall designate. The United States will pay to the Tuscarora nation, on their settling at the west, three thousand dollars, to be disposed of as the chiefs shall deem most equitable and just. Whereas the said nation owns, in fee simple, five thousand acres of land, lying in Niagara county, in the State of New York, which was conveyed to the nation by Henry Dearborn, and they wish to sell and convey the same before they remove west: now, therefore, in order to have the same done in a legal and proper way, they hereby convey the same to the United States, and to be held in trust for them; and they authorize the President to sell and convey the same; and the money which shall be received for the said lands, exclusive of the improvements, the President shall invest in safe stocks for their benefit, the income from which shall be paid to the nation at their new homes, annually; and the money which shall be received for improvements on said lands shall be paid to the owners of the improvements when the lands are sold. The President shall cause the said lands to be surveyed, and the improvements shall be appraised by such persons as the nation shall appoint; and said lands shall also be appraised and shall not be sold at a less price than the appraisal without the consent of James Cusick, William Mountpleasant, and William Chew, or the survivor or survivors of them; and the expenses incurred by the United States in relation to this trust are to be deducted from the moneys received before investment.

And whereas, at the making of this treaty, Thomas L. Ogden and Joseph Fellows, the assignees of the State of Massachusetts, have purchased of the Tuscarora nation of Indians, in the presence and with the approbation of the commissioner appointed on the part of the United States to hold said treaty or convention, all the right, title, interest, and claim of the Tuscarora nation to certain lands, by a deed of conveyance, a duplicate of which is hereto annexed; and whereas the consideration money for said lands has been secured to the said nation to their satisfaction by Thomas L. Ogden and Joseph Fellows: therefore, the United States hereby assent to the said sale and conveyance, and sanction the same.

Art. 15. The United States hereby agree that they will appropriate the sum of four hundred thousand dollars, to be applied from time to time, under the direction of the President of the United States, in such proportions as may be most for the interest of the said Indians, parties to this treaty, for the following purposes, to wit: to aid them in removing to their homes, and supporting themselves the first year after their removal; to encourage and assist them in education, and in being taught to cultivate their lands; in erecting mills and other necessary houses; in purchasing domestic animals and farming utensils, and acquiring a knowledge of the mechanic arts.

In testimony whereof, the commissioner and the chiefs, headmen, and people, whose names are hereto annexed, being duly authorized, have hereunto set their hands and fixed their respective seals at the time and place above mentioned.

R. H. GILLET, [L. S.]
Commissioner.

Senecas.

Dao-nepho-gah, or Little Johnson,	his x mark	[L. S.]
Da-ga-o geas, or Daniel Twoguns,		[L. S.]
Gee-odowa-neh, or Captain Pollard,	his x mark	[L. S.]
Joh-nes-ha-dih, or James Stevenson,	his x mark	[L. S.]
Hure-hau-stock, or Captain Strong,	his x mark	[L. S.]
So-ne-a-ge, or Captain Snow,	his x mark	[L. S.]
Hau-neh hoy's-oh, or Blue Eyes,	his x mark	[L. S.]
Haw-naw-wah-es, or Levi Halftown,	his x mark	[L. S.]
Goat-hau-oh, or Billy Shanks,	his x mark	[L. S.]
Hau-sa-nea-nes, or White Seneca,	his x mark	[L. S.]
Howah-do goh deh, or George Bennet,	his x mark	[L. S.]
Hays-tah-jih, or Job Pierce,	his x mark	[L. S.]
Sho-nan-do-wah, or John Gordon,	his x mark	[L. S.]
Noh-sok-dah, or Jim Jonas,	his x mark	[L. S.]
Shaw-neh-dik, or William Johnson,	his x mark	[L. S.]
Gaw-neh-do au-ok, or Reuben Pierce,	his x mark	[L. S.]
Shaw-go nes goh-shaw-oh, or Morris Halftown,	his x mark	[L. S.]
Shaw-go-za-sot-hoh, or Jacob Jimeson,	his x mark	[L. S.]
Gua-wa-no-oh, or George Big Deer,	his x mark	[L. S.]
Joh-que-ya-suse, or Samuel Gordon,		[L. S.]
Gua-ne-oh-doh, or Thompson S. Harris,		[L. S.]
Gau-geh-queh-doh, or George Jimeson,	his x mark	[L. S.]
Hon-non-de-uh, or Nathaniel T. Strong,		[L. S.]
Nuh-joh-gau eh, or Tall Peter,	his x mark	[L. S.]
Sho-nauk-ga-nes, or Tommy Jimmy,	his x mark	[L. S.]
So-joh-gwa-us, or John Tall Chief,	his x mark	[L. S.]
Shau-gau nes-es-tep, or George Fox,		[L. S.]
Go-na-daw-goyh, or Jabez Stevenson,		[L. S.]
Tit-ho-yuh, or William Jones,	his x mark	[L. S.]
Juneah-da-glence, or George White, by his agent, White Seneca,	his x mark	[L. S.]
Gau-nu-su goh, or Walter Thompson, by his agent, Daniel Twoguns,	his x mark	[L. S.]
Dau ga-se, or Long John,	his x mark	[L. S.]
Gua-sa-we-dah, or John Bark,	his x mark	[L. S.]
Gau-ni-dough, or George Lindsay,		[L. S.]
Ho-ma-ga-was, or Jacob Bennet,	his x mark	[L. S.]
On-di-heh-oh, or John Bennet,	his x mark	[L. S.]
Nish-ha-nea-nent, or Seneca White,	his x mark	[L. S.]
Ha-dya-no doh, or Maris Pierce,		[L. S.]
Yoh-dih-doh, or David White,		[L. S.]
James Shongo,	his x mark	[L. S.]
Ka-non-da gyh, or William Cass,	his x mark	[L. S.]
Ni-ge-jos-a, or Samuel Wilson,	his x mark	[L. S.]
Jo-on-da-goh, or John Seneca,	his x mark	[L. S.]

Tuscaroras.

Ka-nat-soyh, or Nicholas Cusick,		[L. S.]
Sacharissa, or William Chew,		[L. S.]

Kaw-we-ah-ka, or William Mountpleasant, his x mark [L. S]
Kaw-re-a-rock-ka, or John Fox, [L. S.]
Gee-me, or James Cusick, [L. S.]
Ju-hu-we-at-kak, or John Patterson, his x mark [L. S.]
O ta-quaw-naw-wa, or Samuel Jacobs, [L. S.]
Ka-noh-sa-ta, or James Anthony, his x mark [L. S.]
Gou-ro-quan, or Peter Elm, his x mark [L. S.]
Tu-nak she-a-han, or Daniel Peter, his x mark [L. S]

Oneidas residing in the State of New York, for themselves and their parties.

Baptiste Powlis, his x mark [L. S.]
Jonathan Jordon, his x mark [L. S.]

Oneidas at Green Bay.

John Anthony, his x mark [L. S.]
Houjoit Smith, his x mark [L. S.]
Henry Jordon, his x mark [L. S]
Thomas King, his x mark [L. S.]

St. Regis.

Eleazer Williams, chief and agent, [L. S]

Oneidas residing on the Seneca reservation.

Hon-no-g-nea-doh, or Silversmith, for himself and in behalf of his nation, his x mark [L. S.]
Hoge-wayhtah, or William Jacket, his x mark [L. S]
Sah-hu-gae-ne, or Button George, his x mark [L. S]

Principal Onondaga warriors, in behalf of themselves and the Onondaga warriors.

Ka-no-qua-sa, or William John, his x mark [L. S.]
Dah-gu-o-a dah, or Noah Silversmith, his x mark [L. S]

Cayugas.

Skok-no-eh, or William King, his x mark [L. S.]
Geh-da-or-loh, or James Young, [L. S.]
Gay-on-wek, or Jack Wheelbarrow, his x mark [L. S]
D'yo-ya-tek, or Joseph Isaac, his x mark [L. S]
For themselves and in behalf of the nation.

Principal Cayuga warriors, in behalf of themselves and the Cayuga warriors.

Hah-oh-u, or John Crow, his x mark [L. S.]
Ho-na e-geh-dah, or Snow Darkness, his x mark [L. S.]
Gone-ah-ga-u-do, or Jacob G. Seneca, [L. S.]

Di-i-en-use, or Ghastly Darkness,	his x mark	[L. S.]
Hon-ho-gah-dyok, or Thomas Crow,	his x mark	[L. S.]
Wau-wah-wa-na-onk, or Peter Wilson,		[L. S.]
So-en-dagh, or Jonathan White,	his x mark	[L. S.]
Sago-gan-e-on-gwus, or Harvey Rowe,	his x mark	[L. S.]
To-ga-ne-ah-doh, or David Crow,	his x mark	[L. S.]
So-win dah-neh, or George Wheeler,		[L. S.]
Do-goh-no-do-nis, or Simon Isaac,	his x mark	[L. S.]
He dai-sos, or Joseph Peter,	his x mark	[L. S.]
Sa-go-di-get-ka, or Jacob Jackson,	his x mark	[L. S.]

Witnesses:
James Stryker, *Sub-agent Six Nations New York Indians.*
Nathaniel T. Strong, *United States Interpreter, New York agency.*
H. B. Potter,
Orlando Allen,
H. P. Wilcox,
Charles H. Allen,
Horatio Jones,
Spencer H. Cone,
W. W. Jones,
J. F. Schermerhorn,
Josiah Trowbridge.

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Schedule A.

Census of the New York Indians, as taken in 1837.—Number residing on the Seneca reservations.

Senecas	2,309
Onondagas	194
Cayugas	130
	2,633
Onondagas, at Onondaga	300
Tuscaroras	273
St. Regis in New York	350
Oneidas at Green Bay	600
Oneidas in New York	620
Stockbridges	217
Munsees	132
Brothertowns	360

The above was made before the execution of the treaty.

R. H. GILLET, *Commissioner.*

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Schedule B.

The following is the disposition agreed to be made of the sum of three

thousand dollars, provided in this treaty for the Tuscaroras, by the chiefs, and assented to by the commissioner, and is to form a part of the treaty:

To Jonathan Printup, ninety-three dollars.
To William Chew, one hundred and fifteen dollars.
To John Patterson, forty-six dollars.
To William Mountpleasant, one hundred and seventy-one dollars.
To James Cusick, one hundred and twenty-five dollars.
To David Peter, fifty dollars.
The rest and residue thereof is to be paid to the nation.
The above was agreed to before the execution of the treaty.

R. H. GILLET, *Commissioner.*

SCHEDULE C.

Schedule applicable to the Onondagas and Cayugas residing on the Seneca reservations. It is agreed that the following disposition shall be made of the amount set apart to be divided by the chiefs of those nations in the preceding part of this treaty, any thing therein to the contrary notwithstanding:

To William King, one thousand five hundred dollars.
To Joseph Isaacs, seven hundred dollars.
To Jack Wheelbarrow, three hundred dollars.
To Silversmith, one thousand dollars.
To William Jacket, five hundred dollars.
To Button George, five hundred dollars.
The above was agreed to before the treaty was finally executed.

R. H. GILLET, *Commissioner.*

Protest of residents on the Tonawanda reservation.

We, the undersigned warriors and residents of the *Tonawanda reservation of Indians*, in the State of New York, most respectfully beg leave to *protest* and *remonstrate* against the sale and disposition of our land to those who claim to have the pre-emptive right to purchase the same, or to any other individual or individuals, or to the government, as it is and ever has been our deliberate resolve not to accept of the country offered to us by the government, neither to part with the lands now in our possession, and under control of the chiefs as our representatives.

Dated this 15th day of September, A. D. 1838.

George Moses,	x	John Hiram,	x
John Bigfire,	x	Daniel Carpenter,	x
Dennis Sky,	x	James Bigbag,	x
John Bigbag,	x	John Luke, jr.,	x
William Taylor,	x	John Griffin,	x
John Cooper,	x	John Farmer,	x
Amos George,	x	Isaac Doctor,	x
Abram George,	x	William Parker,	x
James George,	x	John Shanks,	x

David Printup,	x	Benjamin Jones,	x
John Fish,	x	Monroe Squire,	x
Robert Fish,	x	Stephen Bigbag,	x
Tommy Black,	x	William Lacy,	x
Sherwood Black,	x	George Clantor,	x
John Miller,	x	Thomas Clantor,	x
John Irvin,	x	Samuel Clantor,	x
Chauncy Abram,	x	Jabez Clantor,	x
George Powder Horn,	x	William Jones,	x
George Washington,	x	Jesse Moses,	x
John Blackchief,	x	William Hatch,	x
John Maki,	x	William Johnson,	x
Isaac Shanks,	x	William James,	x
James Rollin,	x	David Brooks,	x
Anthony Jones,	x	John Martin,	x
Peter Taylor,	x	John Jones,	x
Thomas Evans,	x	Billy Stewart,	x
Isaac Doxtator,	x	Kilisy Tiffany,	x
Simmons Spring,	x	Hirald,	x
Tommy Hiram,	x	John William	x
George Fish,	x	John Abram,	x
Henry Moses,	x	William Clute,	x
Woods Moses,	x	Thompson Coody,	x
John Bigfire,	x	William Snider,	x
Esquire Brooks,	x	Henry Ground,	x
Jemmy Brooks,	x	Henry Jackson,	x
Elon Sky,	x	Aitch Ground,	x
George Sky,	x	Tommy Hall,	x
Henry Johnson,	x	John Cone,	x
Ely Johnson,	x	Daniel Peter,	x
David William,	x	Black Chief Brother,	x
Levi Barker,	x	Nixon Thomas,	x
Jabez Ground,	x	Wilson Thomas,	x
William Cananta,	x	David Bigbag,	x
Small Peter,	x	Elias Jones,	x
Henry Jemison,	x	Reuben Jones,	x
Barber Jemison,	x	Tommy White,	x
William Jemison,	x	John Thomas,	x
William Snidor,	x	David Shanks,	x
Samuel Parker,	x	James John,	x
Joseph Taylor,	x	Ely Stone,	x
Tommy Hill,	x	Nicholson Parker,	x
John Hill,	x	George Taylor,	x
Isaac Hill,	x	Thomas Spring,	x
Lewis Cananta,	x	Thomas Snider,	x
Richard Cooper,	x	Billy Halfbreed,	x
Thompson Cananta,	x	Daniel Spring,	x
Abel Bigham,	x	William Moses,	x
Thomas Bigtree,	x	John Jones,	x
John Bigtree,	x	James John, jr.,	x
Joseph Fish,	x	William Fish,	x
John Beaver,	x	Daniel Fish,	x

James Fish, x James Johnson, x
Adam Blue Sky, x

SEPTEMBER 15, 1838.

I hereby certify that all persons whose names are attached to this paper did severally and personally make their marks in my presence.

THOMAS JEMISON, *Interpreter.*

E.

Proceedings of an Indian council held at the Buffalo Creek reservation, State of New York, fourth month, 1842.

The joint committees of the four Yearly Meetings of Friends of Genesee, New York, Philadelphia, and Baltimore, charged with the concern of these meetings for the welfare of the Indian natives, having, during the past year, applied themselves assiduously to the discharge of the duties devolved upon them, the following summary account of their proceedings is presented as matter of information, and as the best means of giving a correct view of the present state of the concern.

The ratification of "the amended treaty" by the Senate, and its proclamation by the President of the United States, after a full exposure of the objectionable means used to procure its execution, was not anticipated by the committee. It was painful to perceive that a strong and affecting appeal, in behalf of the helpless and oppressed, to the justice and humanity of the nation, should fail to produce its proper effect. The consummation of a scheme to drive an unoffending people from their comfortable homes into a wilderness beyond the State of Missouri involved the committee in increased difficulties, but did not extinguish a hope that, by a further illustration of the case of the suffering Seneca nation, and a renewed appeal to the authorities of our government, a reconsideration of the treaty might be obtained, and that justice would finally triumph over all opposition.

Under this hope, memorials were prepared and presented to the President and to both houses of Congress, and a work was published entitled "A further illustration of the case of the Seneca Indians in the State of New York." In this work the *injustice* of the treaty was fully exposed, and the reasons exhibited why, in the judgment of the committee, it ought to be annulled. The remonstrances offered on this occasion were favorably received, and we have no doubt that there was generally, in the different departments of the government, as now constituted, a disposition to remedy, as far as practicable, the evils of which we had complained. But the ratification of the amended treaty, by which (according to *the forms in such case prescribed*) it had become the law of the land, had vested in the alleged purchasers of the Indian reservations a *legal* right to them, which, it was said, could not be disturbed by any subsequent *legislation* in the case. This opinion, operating with other powerful causes, rendered all our endeavors to procure a revision of the treaty by the Senate unavailing.

While we were thus struggling against a current of unfavorable circumstances, the Indians, under a lively sense of the wrongs and injustice that had been practised upon them, had determined to resist, at least passively, every attempt to dispossess them of their cherished inheritance. Some of their chiefs, under a bitter sense of their injuries, had explicitly declared

that as the whole transaction was a gross fraud, as their *nation* had, as such, taken no part in the affair, except to protest openly against it, they would die on their land by the violence of their oppressors, rather than remove at their arbitrary mandate.

This determination on the part of the Senecas, if carried into effect, must have impelled the government either to permit the law to remain *a dead letter*, or to employ a military force to effect the expulsion of the Indians. The well known policy of the government to remove all the aboriginal race beyond the Mississippi forbids the idea that the treaty would be suffered to remain a lifeless form, whilst the expulsion of the Senecas at the point of the bayonet is a circumstance which could not be contemplated without horror, and would be deprecated by every friend of the Indians and of our country. Even to those who were to be benefited by the execution of the treaty, such a result must have presented painful and discouraging prospects. It would probably divide the citizens living in the vicinity of the Indian lands into parties, as their interests on the one hand, and their feelings on the other, might sway their judgment; and angry contentions and lasting animosities would be the consequence. This struggle might be indefinitely protracted, during which the Indians, agitated by contending passions, disunited among themselves, unsettled and disturbed, would be unfitted for the pursuit of their best interests, and irreparable injury, both to their habits and morals, might and probably would be the result.

With these views, the committee became anxiously concerned for the peace and welfare of the Indians and of our country, and were very solicitous that some means might be discovered by which such disastrous consequences would be avoided. At the same time they felt the deep importance of preventing a forcible removal of the natives to a country ill suited to their present state, and of preserving them in the peaceable enjoyment of a home on lands descended to them from their forefathers. *Under this concern*, through the benevolent mediation of the present Secretary of War, a proposition for a compromise with the Ogden Land Company was made. By his kind and efficient aid all difficulties between the parties were adjusted, and a plan was finally agreed upon which will be developed in the ensuing pages.

By the proposed arrangement, this remnant of the Seneca nation, consisting now of about 2,500 individuals, will have more than 52,000 acres, principally of rich fertile land, giving to each family upwards of 100 acres—a quantity amply sufficient for every necessary purpose. The Indians will be more concentrated, and consequently more favorably situated for mental and moral improvement, as well as for the support of schools and other institutions for the advancement of science and the formation of habits essential to a state of civilization, than they have heretofore been. In this concentrated state they will be accessible to their friends, and more open to the kindly influences of those who may believe it right to devote themselves to the melioration of their condition.

As soon after the arrangement of the supplemental treaty was effected, and the season and other circumstances would permit, a delegation from the four yearly meetings of Genesee, New York, Philadelphia, and Baltimore, proceeded to Buffalo, and, according to a previous arrangement, met the chiefs in council on the 9th of 4th month, 1842. The following narrative of their proceedings will give a clear idea of the transactions which took place on the occasion:

Notes taken at an Indian Council held at Buffalo Creek reservation, the 4th month 9th, 1842, for the purpose of laying before the Senecas the supplemental treaty that had been agreed upon for the reconveyance to them of a portion of their lands in the State of New York.

Present—the chiefs and headmen of the Seneca nation, and the delegation from the joint committee on Indian affairs of the four yearly meetings of Baltimore, Philadelphia, New York, and Genesee.

Maris B. Pierce was chosen interpreter.

Griffith M. Cooper opened the council by the following remarks:

Brothers: We have been favored by the help of the Great Spirit to meet you in council on the present occasion. We are glad to mingle with you, and to find that you and ourselves are here in the enjoyment of good health. For this, and every other blessing, we should be thankful to the Author of our existence.

The subject upon which we have assembled is one of vast importance to you; therefore we desire your ears may be opened to hear and to understand. The friends that you now see before you have been deputed, by the four yearly meetings of Baltimore, Philadelphia, New York, and Genesee, to meet you here this day in council. If you are ready to listen to them, they are prepared to open their business before you, and to state to you the things that have been committed to their charge.

The communication they are about to make to you is the voice of the four yearly meetings I have alluded to. If you have any preparatory remarks to offer, we will listen to you.

To this, Israel Jemison replied as follows:

Brothers and Friends: You have this day again met us and our people in council. We are happy to see you; we rejoice that you are well. It was the kind hand of Providence that brought you here safe and in good health. We thank our Creator for his kindness; we hope we shall bless him for his goodness to us this day.

Brethren and friends, *this council was opened at your request*, for the purpose of laying before this people the business between us and the Ogden Land Company. It is a great and momentous subject. You have given us notice that you were ready to open to us those things which you have in charge. We are now ready to listen to you.

The following communication, agreed upon by the joint committees, was then read and interpreted to them:

To the Seneca nation of Indians in the State of New York:

Brothers! It is now about three years since your friends of the yearly meetings of New York, Philadelphia, and Baltimore were informed of the difficulties in which you were involved with the Ogden Land Company. In the eighth month, called August, in the year 1839, a large committee of Friends came to see you, in order to inquire more fully into the causes of your trouble. We then learned that a treaty, dated January 15th, 1838, had been executed by a number of your chiefs, in which it was agreed that the Seneca Indians should, within five years, give up all their lands in the State of New York, and settle in the country beyond the State of Missouri. To this treaty the names of forty-five chiefs were attached. We also learned that a deed of the same date, conveying to the Ogden Land Company the

four reservations of Tonawanda, Buffalo, Cattaraugus, and Allegany, had been executed, and that the names of forty-three of your chiefs appeared on that deed.

Brothers! When we visited you at that time we also learned that the government of the United States had not ratified that treaty, and that the Senate had made another, which was called "the amended treaty." This treaty was, by order of the Senate, to be explained to the Indians *in council*, and then submitted to them for their signatures. This was done, but, as you have assured us, was neither approved nor signed by a majority of your chiefs.

Brothers! When your friends heard these things, their hearts were made sad. They believed that what you told them was true, and that you had been grievously wronged. Under this conviction, relying on the justice of your cause, and the good faith of the government, they appealed to the President of the United States, and to the National Legislature, in both houses of Congress, on your behalf. Documents, showing the manner in which "the amended treaty" had been executed, and fully illustrating your case, as it was represented to us by yourselves, were laid before the President and the other branches of the government. Yet, notwithstanding all our exertions, and the faithful labors of your friends in the Senate, the treaty was ratified and proclaimed by the then President as the law of the land.

Brothers! Ever since that time we have labored faithfully to obtain a revision of that treaty by the constituted authorities of our country. We have printed books to spread the knowledge of your wrongs. We have been many times at Washington to plead your cause. We have solicited the aid of the governments of New York and Massachusetts. We have spared no labor, no expense, no exertion, to obtain relief for our red brethren.

Brothers! We are sorry to have to say to you that the difficulties and obstructions which lay in our path were so many and so great that we could neither walk over them nor remove them out of the way. As soon as the treaty was ratified, and proclaimed by the President of the United States, it became the supreme law of the land; and the deed, which had been signed by a number of your chiefs, vested certain legal rights in the Ogden Land Company, which, we have been told by men learned in the law, could not afterwards be taken from them by any legislative action on the part of the government.

Brothers! Under these circumstances we looked round on every side, and saw no certain way for the relief and preservation of your people, unless a compromise could be made between all the parties to that treaty, by which each of them should concede and give up something for the peace and harmony of the whole.

Brothers! It was thought by some who were friendly to your cause that you might finally obtain justice by an appeal to the courts of law. This subject has been seriously and anxiously considered by us; but when we took into view the heavy expenses of such an undertaking, the great length of time it might require to bring it to an issue, the unhappy effects of hostile proceedings upon all parties, and the unsettling and ruinous consequences of a tedious law-suit upon yourselves, we could not recommend that course to our red brethren, but would follow it ourselves.

Brothers! After we had suffered much anxiety and trouble on your account, and the hope of obtaining any relief for you had begun to fail us, a

way was opened for an accommodation, and settlement of all the difficulties between the several parties to the present controversy. At a council held at Washington, on the 28th day of the first month, in the present year, between the Secretary of War, the agents of the Ogden Land Company, and a delegation of Friends on behalf of the four yearly meetings of Genesee, New York, Philadelphia, and Baltimore, a plan of accommodation was proposed, and it was agreed to put it into the form of a treaty for your consideration. This was done; it was carefully considered, and will now be laid before you.

Brothers! By this arrangement you may, if you please, continue to dwell on a part of the land which the Great Spirit gave to your forefathers. The two reservations of Cattaraugus and Allegany will be restored to you, and will remain yours forever, or until you may choose to part with them. For the two reservations of Tonawanda and Buffalo you will receive a price proportionate to the whole sum mentioned in the deed before mentioned, dated January 15th, 1838, signed by many of your chiefs; and you will be paid for the improvements upon them at the same rate as agreed upon by those who executed the treaty of that date. Under this arrangement, also, such of your people as may choose to remain in the State of New York will have land sufficient for their accommodation and subsistence, where they may enjoy the advantages to be derived from a surrounding population, skilled in agriculture and the arts of civilized life; while such of them who may prefer a situation in the country beyond the river Mississippi will be left at liberty to emigrate to that place, and take with them their share of the moneys and annuities of the nation; and, moreover, they will be entitled to their portion of the land, as well as to all the other advantages secured to them by the treaty, which has already been ratified. If, then, there be two parties among you, the one an *emigration* party, and the other a *domestic* or non-emigration party, both may be accommodated under the proposed arrangement.

Brothers! It is well known to you, that by your proximity to the city of Buffalo your people are exposed to the pernicious example and contaminating influences of wicked men, by which many of you have been corrupted, and others much injured. Sould you accept the proposed treaty, such of you as may remain on your New York lands will be further removed from a situation which has already been to you a source of much injury.

Brothers! If it should appear to you proper to reject the present proposition, you will stand just as you stood before this attempt to effect a compromise was made. The amended treaty provides for the relinquishment of all your lands in the State of New York; and, at the same time, requires your removal to the country beyond the State of Missouri. "The supplemental treaty" or compromise now proposed leaves all of you at liberty. Such as choose to go may go, and take their shares of the moneys and annuities of the nation: such as choose to stay may stay, and enjoy all the advantages of a country already civilized and improved. We desire that you may seriously consider the proposition now before you. On your decision at this time much of your future welfare depends. You must judge for yourselves. Your friends have come here to lay the contract before you, and to explain its provisions; they have not come to dictate any thing to you, nor to direct you in your choice.

Brothers! We have done for you every thing that it was in our power to do. For more than two years we have labored faithfully in your cause.

You will now know the result of all our exertions in your behalf; and on this solemn occasion we feel concerned to say a few more words to you before we part. To those who may emigrate, and to those who may remain, or whether you all remain or all go away, our communication will be equally applicable to you.

Brothers, listen! You know that the white men have a written language. By this means we can look backward, and see clearly over all the long path in which the *red* men and the *white* men have been walking, now more than two hundred years. We have seen that from the day when the *white men* first set their feet on your land *they* have been *increasing*, and the *red men* have been *decreasing*. The *white* men are now very numerous and powerful; the *red* men are few in number and very feeble. Some of their nations are entirely extinct—their council-fires have gone out forever. Others have been greatly reduced; and the little remnants yet living are poor and weak, and scattered abroad—some in one place and some in another. From the great water which lies towards the rising sun, to the great Mississippi, the father of rivers, a distance of almost one thousand miles, they have nearly all disappeared.

Brothers! We have thought much of these things, and we believe that many of our red brothers have thought of them also. And now we feel it to be our solemn duty to open our minds to you. When great evils fall upon individuals or nations, the wise men among them try to find out the cause; and when they have found it, they endeavor, by the aid of the Great Spirit, to remove it out of the way. This is a duty as binding upon the red men as upon the white men.

Brothers! We all know that war, and strong liquors, and the small pox, as well as other contagious diseases, have destroyed many of the Indians, and greatly reduced their numbers; but when there are no wars, and no contagious diseases among them, they still continue to decrease. We think that the use of strong liquors, and the indolent mode of life yet followed by many of your people, are the principal causes of this decrease.

Brothers! We have heard with much pleasure that on some of your reservations you have made great exertions to prevent the introduction and use of strong liquors among you. If you should succeed in your efforts wholly to keep out this destructive drink, one fruitful cause of your misery and decrease will be removed.

Brothers! The Great Spirit, when he first made man, intended that he should labor. Moderate labor is good for his body and for his mind. It makes him strong and healthful. By industry and diligence he is enabled to have a warm house, good clothing, plenty of wholesome food, and all the comforts of life in abundance. By these means, also, he is enabled to improve his mind by useful learning, and to give his children a good education. Thus one generation after another have the means of growing wiser and better; and we believe that under such circumstances nations always increase in numbers and become strong.

Brothers! You know that under the circumstances in which you are now placed, surrounded by a white population, the white men, by their intelligence, are constantly taking advantages of you, which we believe will always be the case until you are prepared, by a better education and a more general acquaintance with the habits and customs of civilized life, to guard yourselves against them. We believe it essential to your prosperity that you adopt a mode of living suited to your present condition. You

can no longer live by the chase—you must either become cultivators of the earth, or cease to exist as a people. We understand that it is the will of the Great Spirit that man should till the ground; for without tillage it will not produce bread. Where this will is obeyed, *there* we generally see a prosperous and happy people; where it is neglected, vice and misery, and want, and destruction, come upon the nation.

Brothers! Some of you know that your friends, the Quakers, ever since they had settlements among you at Allegany and Cattaraugus, now more than forty years, have preached to you this doctrine. They labored to persuade your people to become farmers, and bring up your children to agriculture, and to learn trades. They saw as plainly as we see now that this was the only way to preserve the Indian tribes from extinction.

Brothers! As our fathers preached to the Indians this doctrine more than forty years ago, so we now hold forth to you the same doctrine. We will not deceive you. We will open our hearts to you freely and plainly. We will tell you the truth. You did not take their advice then, and since that time your nation has been growing weaker and weaker; but we believe it is not yet too late to reform. If you will take our advice now; if you will bring up your sons to agriculture and the arts; if you will withdraw your women from the labors and drudgery of the field; if you will have your daughters taught to spin and to sew, and to knit, as well as to practise the other useful branches of housewifery; if you will set your children an example of sobriety and the other virtues, then will your nation grow and increase, and become strong; but if you will not follow this advice, nothing your friends have done, or can do for you, will save you from extinction; and the day is not very distant when, like the snow under a warm sun, your race will melt away, and be seen of men no more.

Signed on behalf of the joint committee on Indians affairs of the four yearly meetings of Friends of Genesee, New York, Philadelphia, and Baltimore.

G. M. COOPER, WM. S. BURLING, } *Genesee.*
N. STARBUCK, JOHN LEGGETT, S. J. UNDERHILL, } *New York.*
BENJAMIN FERRIS, JOSEPH WARNER, JOHN JACKSON, } *Philadelphia.*
MOSES SHEPPARD, PHILIP E. THOMAS, } *Baltimore.*

BUFFALO, *4th mo. 9th*, 1842.

Israel Jemison then rose and said:

BROTHERS AND FRIENDS: You have now given us your communication—you have made us understand it.

It is now a great many years since there was a full understanding between your fathers and our fathers, that there should be a free and friendly intercourse between you and us. It is true, you have done your duty towards us. Your fathers long ago told us the same things you have told us this day, and you have repeatedly given us the same information and instruction that you now give us.

We believe you to be our friends; we believe you will be faithful to us

as long as our nation shall exist; that you will endeavor to protect us, and give us all the information we need.

In the present communication you have told us that which is true; and we are sensible that if our nation will acquiesce in and embrace your counsel, it would have a most salutary and beneficial effect upon them; and that if we should reform, and wholly reject the use of ardent spirits, we should become a happier and more prosperous people. It is also true, that if we adopt habits of industry, and not lie down in idleness day after day, we should become more comfortable. We also believe that if our women, too—our mothers and daughters—should leave the labor and drudgery that they now undergo for a more domestic employment, it would be both to their and our benefit; it would promote the good of all. It would also be a means of preserving our people, if they would send their children to school and have them instructed in useful learning and the arts of civilized life; and we are fully convinced that if our nation would adopt your habits and mode of life, they would be more prosperous and happy.

We hope your communication will do us good; we hope and pray you may continue to give advice and instruction to this people. There are none who have done as much for us as you have done. You have labored much for us both in body and in mind; you are anxious for our happiness and our safety; you have spent much time and money in our behalf.

Brothers, these are proofs and witnesses that you have much feeling for our people; and we would say to you, that we return you our hearty thanks.

We now come to another subject, the important business of our present council. We are now about to discuss the merits and demerits of this important question.

Brothers, I want to ask you some questions in relation to this compromise. I understand that the Cattaraugus and Allegany reservations will be reconveyed to the Indians, but the Tonawanda and Buffalo reservations will be confirmed to the Ogden Land Company. We want to know, if the chiefs should conclude to give up another reservation in exchange for one of these, whether the Ogden Company would accede to it?

If the chiefs conclude to have certain alterations in this treaty, will the government consent to it?

Do we understand you to say that those who wish to emigrate may do so, and those who wish to stay may stay? There are chiefs of the emigrating party present. They believe, according to the treaty, that they will remove if all the four reservations are disposed of. Suppose they say they are emigrationists if *all* the Indians remove; but if *part* of them remain, they will remain also. Now, if a majority should say to the emigration party that they shall go in the event of a compromise, will they have any power or authority to compel them to remove?

Brothers, it seems necessary that we should inquire into these points, that we may have a fair understanding. I await your answer.

The proposed supplemental treaty was now read, and its provisions explained by Benjamin Ferris. When these explanations had been concluded, Israel Jemison continued:

Brothers, a few minutes ago we put several questions, in order to a fair understanding of the subject, and before you answer them we will ask a few more questions. Have you power to alter or amend this treaty so as to

say this article shall be inserted, or this shall not? The agent of the Ogden Company is not here.

According to this treaty, the President of the United States is to receive the consideration money. Can the Indians draw the principal when they want it?

Since the majority had no voice in fixing the value of the lands, can they change it now? Perhaps they would like to have more than is therein stated; and we would like to know if the Ogden Company would be willing to increase the price of the lands.

Can the treaty be amended by the Indians, so that in case the chiefs conclude to accept it they can lengthen out the time they have to remove, and be permitted to hold their improved lands longer than one year?

William Jones asked, What will become of the Green Bay lands, if the Indians conclude to accept this treaty?

Upon which I. Jemison remarked, Some of the chiefs thought they had no business to meddle with that, as the Indians never wanted the Green Bay lands.

William Jones replied: The reason I put the question was, that the United States had been trying to force the Senecas to own them.

I. Jemison then said he wanted to know what was to become of the Indian land at Oil Spring—it was not mentioned in this or in any former treaty.

The committee replied, that the six hundred and forty acres of land at Oil Spring not being ceded by the Indians to the Ogden Company in any treaty or deed, consequently still belonged to the Senecas.

Wm. Crouse inquired, If the chiefs conclude to accept this treaty, and desire to draw the principal of the money at once, and not let it be paid over to the United States, and receive the annuities therefrom, could they draw and deposite it where they please—I mean deposite the principal in some other place, and receive the annuities? I also wish to know, if the emigration party should conclude to go to Cattaraugus, and stay awhile, and afterwards conclude to go beyond the Mississippi, can they at any time take their annuities?

Tunis Halftown said, I want to ask a question, as the door is now opened. Will the Ogden Company give up the pre-emption right to these two reservations?

Daniel Twoguns asked, Will the Company consent to the Indians dividing these two reservations into farms, so that each family will have the sole power to buy and sell, without the consent or authority of the chiefs?

Samuel Gordon said he thought there was no use in asking questions, until they knew whether any alterations in the treaty could now be made.

Benjamin Ferris, on behalf of the committee, stated that the object of the council was expressly to lay the whole subject before the Indians for their consideration—we did not expect a final decision until the Indians should fully examine the proposition in all its bearings—and that they were at liberty to ask any question which they might think necessary to a fair understanding of the subject.

Jacob Johnson then inquired if the Ogden Company would be willing to let the Indians retain their improved lands on all the reservations, in case they should be willing to give up to the company all their wild lands on the four reservations?

Henry Twoguns repeated a question put by Israel Jemison, whether this supplemental treaty could be altered or not?

Lewis Halftown asked, if we should reject this treaty, as we have never assented to the amended treaty, what consequences would follow?

Samuel Gordon wished the committee to state, distinctly, whether the proposed treaty could be amended by the Indians or not?

Israel Jemison asked for the same thing; he also wished particularly to know, if the Ogden Company really had acquired vested rights under the supplementary treaty, what considerations had led that company to accede to this compromise arrangement?

Philip E. Thomas, on behalf of the committee, then made the following statement:

We will endeavor, in a few words, to inform the council of the circumstances which led to the compromise now proposed.

When this subject was first brought to our knowledge, the amended treaty, together with a deed of conveyance, by which the Senecas had alienated the four several reservations of Tonawanda, Buffalo, Cattaraugus, and Allegany, had been executed. It was alleged by you that very corrupt means had been employed in procuring this deed and treaty, and in your then distressed situation you solicited our aid.

The committees of the four yearly meetings, after taking the whole subject into consideration, and endeavoring to ascertain the best course for them to pursue, under the circumstances in which they found you placed, waited on the then President of the United States, in whose hands the treaty at that time was, and requested him to return it back to the Senate, in order that this body might have an opportunity to reconsider it. At the same time they petitioned the Senate not to ratify it, and they also laid before both the President and Senate all the evidences that had been furnished by you of the improper means employed to procure the treaty.

Notwithstanding all these representations, the treaty was finally ratified by the Senate, and subsequently it was formally proclaimed by the President.

Finding that nothing could be gained for the relief of the Indians by appeals to the President or Senate of the United States, the committee petitioned Congress not to furnish money to carry it into execution. This, however, they were aware could only produce a temporary suspension of the treaty, because it was foreseen that in the end Congress would grant the money, and the treaty be carried into effect.

As soon as your friends discovered that there was but little hope of defeating the treaty in the Congress of the United States, they began to consider whether an appeal to the courts of law, on behalf of the Indians, might not be made. After obtaining the best advice they could procure in relation to this subject, they perceived that this would not be a discreet measure, and should not be resorted to but in the last extremity. It was certain that if adopted it would consume a great length of time, and involve a large sum of money; while there was scarcely a hope that in the end it would result in any advantage whatever to the Indians.

When they had arrived at this point they began to despair of effecting any thing for your benefit, unless the Ogden Company could be induced to enter into a compromise; and they determined to make an effort to effect the best arrangement they could in that way.

They saw that the treaty as it now stood, however it might have been

procured, had become the fixed law of the land; that the Ogden Company had acquired certain rights under it, which could not be taken from them by any legislation; that the treaty having all the constitutional forms necessary to make it valid, would be so considered by the courts of the United States, and would be carried into effect.

Considering that, by the conditions of this treaty, the whole of the lands in your four reservations had been ceded by the Indians, and that within five years you would be driven from your homes, into a far distant wilderness, the committee were most anxious that this great calamity might be averted; and after considering the matter very maturely, they concluded to open a correspondence with the Ogden Company. When the proposition for a compromise was first made to the agents of that company, they promptly rejected it, and avowed that they did not want any compromise; that they had bought the lands and would take possession of them; consequently, the first interview with them terminated without any prospect of success.

An appeal was then made to the Secretary of War, and by his interposition a second interview with an agent of the company took place in the War Office, at Washington, at which the Secretary was present; and from that time he effectively lent his aid to assist your friends in carrying out the proposed measure.

The Ogden Company perceiving that not only the whole influence of the Society of Friends would be exerted against them, but also that we should have the assistance of the government, now listened to our overtures, and several interviews took place afterwards with the agents of that company. After a great deal of labor and perseverance, the negotiations with them resulted in the procuring for you the return of the two reservations as now proposed by this treaty.

We informed you, when we came here, that it was our intention to open our hearts to you freely. We will not conceal any thing from you. We therefore tell you plainly, that we have, after encountering many difficulties, and expended much time and labor, obtained for you the most favorable terms in our power. The Ogden Company have with difficulty been brought to agree to the terms of this treaty; and it is our opinion, which we desire you distinctly to understand, that if the present terms are rejected, you will never be able to obtain as favorable ones hereafter.

There are among you wise and judicious men, who understand your interests, and are capable of deciding what will best promote the happiness and welfare of your nation. The question at issue is now plainly before you. It is, will you prefer to occupy two of your reservations as now proposed, or will you relinquish the whole, according to the stipulations of the amended treaty, and remove to a distant wilderness?

We repeat that it is not our purpose to dictate to you what course you shall pursue. The object of our coming here at this time is to lay before you all the advantages we have been able to secure for you, that you may be made acquainted with and fully understand your situation, and the alternatives before you. If, after considering the subject, there be any point upon which you may think our advice could be useful to you, you know we have always been your friends, and are disposed to render you our best service. Should you now, therefore, want our advice, we will endeavor, by the aid of the Great Spirit, to give you the best in our power.

At the time we held the council with some of you at Farmington, you requested us to tell you when we had lost all hope of doing any thing for

you. Since then we have done all that we could. We found by the treaty that you had alienated the whole of your lands. We have succeeded in obtaining the restoration of a considerable part of them to you, and we have no hopes of effecting more.

The treaty, as it is now offered to you, is not open to alteration or amendment. It must either be accepted or rejected *as it is*. This your friends have assented to, because we are convinced that if it be once open to alteration, matters might be introduced into it prejudicial to your interests, whilst there is no hope that any additional advantages whatever could be obtained for you.

Benjamin Ferris then, on behalf of the committee, returned the following additional answers to the questions that had been put by the Indians:

Question. Can the chiefs, if they desire it, have another trustee than the United States to hold their moneys?

Answer. We are not prepared to give a positive answer on this subject, but we think that under the present very unsettled state of the monetary affairs of our country, the United States would be the best trustee that could be chosen for you. We therefore think the arrangement on the subject, as contained in the treaty, should not be disturbed.

Question. Can the money be paid immediately to the Indians for division?

Answer. The proportion of one hundred and two thousand dollars for improvements is to be paid immediately to those who own these improvements, upon their relinquishing them, as provided by the treaty; the other part we think must be left for the present. But whenever a change can be made that is desirable to the Indians, your friends will do for you what they think may be best in the case. As the United States have no interest in holding this money, they being obliged to pay six per cent. for it, we presume they will not object to pay it at the solicitation of your friends. The time may probably come when it may be right for you to possess the principal of these annuities, and we see no reason why the government may not be disposed to grant your request. You may rely on our co operation and assistance in obtaining for you justice at the hands of the government.

We want you to understand that this is not the final council for the ratification of the treaty, but is designed to prepare you to come to a decision in the case. If you decide to accept this treaty, a commissioner will be appointed on the part of the United States, and one from Massachusetts, to attend to its execution. If you reject the compromise, there will be no need that they should come.

Israel Jemison said:

Brothers! I wish to inform you that it is the custom of the chiefs of the Seneca nation, when they have important questions to discuss, to examine the subjects before them fully before they decide upon them. You have explained this treaty and its provisions to us; we will deliberately consider it; we do not know what the minds of the chiefs are—therefore we cannot tell when we will return you our answer.

You are now at liberty to retire from the council, when you desire to do so, and we will discuss the matter among ourselves.

Benjamin Ferris, on behalf of the committee, then added:

We wish to say a few more words before we part, in answer to the question, whether there is any thing in this treaty which obliges the emigration party to remove? The treaty you have heard read is a treaty with the *Sen-*

eca nation, and not with any *party*, either an emigration or non emigration party. This is explained in the address we have already read to you. We now propose to leave you for the present, and at any time you may desire we will meet you again. If at such time you have any other questions to ask, we will endeavor to answer them. When you have nothing further to ask by way of explanation, we will feel ourselves at liberty to return to our homes, but will leave our friend, G. M. Cooper, to receive and bring your answer to us.

The council then adjourned to 2d day, the 11th instant.

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The council again met 4th mo. 11th, 1842, at which time the committee, by invitation, attended.

William Jones, one of the chiefs, gave notice that they were now ready again to do business.

Philip E. Thomas, on behalf of the committee, remarked:

Brothers! At the council held two days ago, we explained the reason that had led us to visit you at this time. We informed you of the efforts that had been made to procure for you an alteration in the arrangements which had been executed for the relinquishment of your lands to the Ogden Company, and the difficulties that laid in our way in effecting that object. We likewise laid before you, and carefully explained to you, the terms and conditions of the proposed supplemental treaty that has been arranged by your friends for you, and we suppose that you now understand the whole matter. We have, however, thought it would be best, before we returned to our homes, to have a parting interview with you, in order that if you desired any further information on the subject, you might have an opportunity to obtain it.

Joseph Silverheels then asked, if an Indian emigrates from these reservations, can he have his share of the lands and annuities of the whole nation?

To which Benjamin Ferris replied: We understand, by the provisions contained in the supplemental treaty, that any number of the Seneca nation choosing to go west and settle on the lands reserved for them there, will be at liberty to take with them their share of the moneys and annuities of the nation; they will also be entitled to the advantages of the previous treaty, which secures a remuneration to the individual Indians for their improvements; every Indian will, therefore, be paid his proportion of the *one hundred and two thousand dollars* coming to him on that account. The treaty makes no provision for a distribution of the moneys of the nation to any Indian who shall emigrate to lands held by a foreign power.

Question by a chief. If the chiefs should ratify this treaty, and soon after conclude to go to the west, can they go?

Answer by Benjamin Ferris. If this treaty should be ratified, the reservations of Cattaraugus and Allegany will be considered as the property of the whole Seneca nation. If the treaty should be accepted, and the whole Seneca nation be settled on these reservations, and any individual shall afterwards choose to emigrate to the country set apart for the Indians in the west, he will be entitled to his share of the annuities of the nation, which will be paid to him yearly at his new home: the treaty provides that the lands on these two reservations shall remain the property of the Indians

who will continue to reside on those lands; but if the nation shall, at any future time, conclude to sell these two reservations, those who have removed before such sale will be entitled to their proportion of the amount of such sales.

Question by Daniel Twoguns. If the Indians, at some future day, conclude to sell the Cattaraugus and Allegany reservations, will they be obliged to sell them at the price mentioned in a former treaty?

Answer by Benjamin Ferris. One of the advantages the Seneca nation will derive from this treaty is, that they can demand what price they please for these lands; and if they do not choose to sell them, there is no power on earth that can force them to dispose of them.

Question by Israel Jemison. Suppose a part of the nation emigrate now to the west, and at some future day a treaty should be held to sell the lands; can those chiefs who may have emigrated have a voice in selling the lands of the nation?

Answer by Philip E. Thomas. By the conditions of the proposed treaty, their due proportion of the annuities will be paid, at their new residence, to all the Indians who emigrate to the west, in the same manner as if they had not removed. But, as by their removal they will acquire rights and privileges on the new lands, they cannot, after they go away, claim to exercise any control over the reservations which they may have left. There is a provision in the treaty, that should the Seneca nation, remaining on their lands, at any time hereafter choose to sell them, then whatever share of such lands would have belonged to these emigrants had they not removed will still inure and be paid to them.

According to the terms of this treaty, the full and complete right and title of the Seneca Indians to all the lands on the two reservations of Cattaraugus and Allegany are to be restored, and by deed reconveyed to them, with the same title and under the same conditions as they were held before any deed or treaty had been made; so that neither the Ogden Company, nor any individual, will ever have any right or power to interrupt the Indians in the peaceable possession of these reservations as long as they choose to remain on them; consequently the power to hold or sell these lands will remain exclusively in the Seneca nation, forever.

Daniel Twoguns said: According to the amended treaty, the Indians, if they conclude to go west, must remove within a limted period. Can the time of their removal be extended beyond what is mentioned in the treaty?

Answer by Benjamin Ferris. The only restrictions as to the time of removal are contained in the treaty of 1838; by that treaty the President of the United States has the power to extend the time beyond the period therein mentioned. That power will remain with the President, because the treaty remains in force, except so far as it is altered by the present treaty.

Oliver Silverheels said: The Secretary of War some years ago proposed to the Indians, that in case they would consent to remove to the west, and were not satisfied with the lands the government had reserved for them, they might select other lands belonging to the government to settle on. Would the government now renew such a proposition to the Indians?

Answer by Benjamin Ferris. An attempt was lately made to obtain lands from the Sacs and Foxes for the Indians that dwell east of the Mississippi river. That attempt was made, we understand, in consequence of a desire to remove the Indians from the Territory of Wisconsin, which lies

east of the Mississippi river. We also understand that all the influence of the government to procure a territory there has failed; and we therefore believe that if any of the Seneca Indians incline to remove to the west, they will have to occupy the territory already assigned them.

Wm. Crouse inquired, if the Indians conclude to remove to Cattaraugus and Aliegany, will they be entitled to their proportion of the appropriation of the United States government by such removal?

Answer by B. Ferris. There is no provision in the treaty for such an appropriation. The Indians that remove from Tonawanda and Buffalo will be individually paid for their improvements, according to the terms prescribed by the treaty.

We wish the Seneca nation distinctly to understand the position they now occupy. By the treaty which has been ratified, all their lands are sold to the Ogden Company. They therefore now own no lands. By the proposed supplemental treaty, two reservations are to be reconveyed to them by deed; in which case, they will then own those two reservations. By the present arrangement the Indians are the grantees, and the Ogden Company the grantors; and therefore there is no provision for paying more than the price of the conveyance. By this treaty, the Indians do not give any thing; they are only the receivers.

Israel Jemison, after premising that what he was about to say was on his own responsibility, and not on behalf of or by authority of the chiefs, remarked:

I will never say that I have parted with my lands. I have never signed any instrument conveying these lands to the Ogden Company. I believe if the chiefs, or a majority of them, ever conveyed these lands to the Ogden Company by good and sufficient title, that company would never be willing to convey them back again. For my part, I conclude that because they are now willing to restore these two reservations, they consider the contract was fraudulent and not valid.

It is my opinion that the white people will resort to any means to deceive the Indians. Because we are few and weak, they think they can do as they please with us: they take advantage of our weakness, to cheat and deceive us.

We were told last year by the Secretary of War, in a written communication read to us by Daniel Kurts, that if the Indians did not wish to remove to the lands the government had assigned them in the west, but should prefer to remove to another place, they might do so. It seems now that this proposition was made to gain influence and obtain votes in favor of the treaty. The laws of the United States required that the Indians should emigrate to the Indian territory; and yet this proposition was made by the Secretary of War!

Brothers, the white people understand how to deceive; they know how to make statements and propositions that shall appear plausible to the minds of the Indians: they say one thing, and at the same time mean another.

It is my determination, from this time forward, never to consent to part with these lands or any thing that I have. If an individual proposes to purchase my lands, and I do not wish to sell, he cannot have them. He may, if he has the power, and thinks best to use it, compel me to part with my property; but while I have a voice in the matter, my answer will be—you cannot have it.

If I consent to this treaty, my mouth will be shut; I shall then have no

voice in the sale of my lands. Now, I think, in order to make a contract valid, both parties ought to have a voice in making that contract. I shall therefore not consent to this treaty.

* John Black Smith, a Tonawanda chief, after premising that what he was about to say was upon his own responsibility, and not by any authority of the chiefs, said:

Brothers, you have now laid this treaty before us, and explained its provisions. I told you at the council at Farmington that the Indians of Tonawanda would never consent to part with their lands, and remove to the west.

I said then what I say now: I will never do it. I told you that not one of the chiefs on the Tonawanda reservation had signed any treaty since the commencement of this negotiation; neither have they received any money from the Ogden Company. Now, the treaty before us is a proposition from that company to the Indians, and the provisions therein contained I do not approve of, and will never consent to them.

Tunis Halftown then rose, and stated that he wished to say a few words on behalf of the Allegany chiefs:

It seems, from the treaty now before us, that two of the reservations will be restored to the Indians, and it appears to me that we have only to accept or reject it. But as two of the chiefs have expressed their own views in relation to it, a question occurs to me, whether, if the chiefs of the two reservations accept it, and only a few on the Buffalo and Tonawanda reservations unite with them, will that be sufficient?

Answer by B. Ferris. It is our judgment this must be determined according to your custom of settling all your national affairs; it must be the act of the nation; you must accept or reject it according to your usual mode of doing business.

Daniel Twoguns said: Since you have done so much for the Indians, and spared no pains in your labors for them, and have now laid before them the terms of a compromise, what is your advice in this matter? is it better for the Indians to accept the compromise, or not?

The committee, before answering this question, requested to be informed whether it was *the wish of the nation* that we should give them our advice; if it was, we were prepared to tell them what we thought would be best for them.

After consulting a considerable time, it was concluded by the chiefs not to ask the advice of the committee on the subject. Some of the chiefs remarked, that if we gave them advice, and they did not follow it, it might be considered as a breach of friendship; whilst others thought they would be bound to take our advice in case they asked it; they therefore concluded to decide the matter among themselves.

Benjamin Ferris then remarked:

Brothers! We have now heard what you had to say in relation to injuries that have been committed on your nation by the white people; our hearts have bled on account of the wrongs that have been inflicted upon you. When we undertook your case we found you in difficulty and trouble; for three years we have faithfully labored for your benefit, and we have now submitted to you the result of all our labors; we want you to reflect; and after mature consideration, to decide for yourselves. If you

* These are the only chiefs, who attended the council, that did not assent to the supplemental treaty.

accept the present treaty, we have explained to you what you will secure by it. If you reject it, you are aware that you will be exactly in the same position you were before this attempt was made for your benefit.

In relation to what was said by a former Secretary of War, (J. R. Poinsett,) when he informed you the government would procure other lands for you in the west than those already set apart for the Senecas, we believe it right to state that, in our opinion, that proposal was held out in good faith, because we know a delegation was afterwards appointed by the government to proceed to the country west of the Missouri, and we believe that strenuous exertions were made to obtain such a territory; but there were so many difficulties laid in the way by the whites and Indians already located there, that the object was defeated.

When the council was opened, we read to you an address, which contained the result of all our labors and deliberations in your behalf. It is our intention to leave with you a copy of this address, in which our whole mind is explained; one of our friends will also remain with you to receive your decision, and he will send it to us.

And now, having fully communicated to you the business we had in charge, we leave the whole subject with you for your own consideration and final decision.

William Crouse then spoke on behalf of the chiefs, as follows:

Brothers! You have now given us your communication, and explained the whole of your business, so that all our chiefs understand it.

Brothers! You may expect that this subject will be thoroughly examined and discussed by the chiefs, and some determination will be come to by them; we understand that one of your number will remain here to take our answer to you; we like that arrangement.

Brothers! You are about to leave this council and our nation. We will take you by the hand, as our meeting is about to close with you. We hope you may return to your homes in safety, and that the Great Spirit will protect you in your journey, and enable you to reach your families in good health.

Brothers! We must leave all things to the kind care of Him who rules over the affairs of nations, and hope that our decision may be such as will promote the good of all, and be most for the advantage of our whole nation.

John Jackson then addressed the following remarks to the council, on behalf of the committee:

Brothers! We are now about to leave you, and return again to our families. You told us, when this council was opened, that it was a long time since there was a full understanding between your fathers and our fathers; that there should be a free and friendly intercourse between the Society of Friends and your people; we rejoice that this friendly intercourse has continued down to the present time; and we desire it may continue while you exist as a nation.

When we undertook to assist you in your present difficulties, we had no interest or selfish motive in view; we believed you were an injured and oppressed people; we thank the Great Spirit that he has opened our ears to hear you, and has enabled us to feel and sympathise with you in the many difficulties by which you are surrounded.

We have laid before you the important concerns that were intrusted to us; we have opened our minds to you freely; we leave you to deliberate on these subjects; to judge for yourselves, and to come to your own con-

clusions. We desire that your decisions may be so directed by that wisdom which is from above, that whatever you do may result in the happiness and prosperity of your people.

Brothers! In conclusion, we now bid you farewell. We shall continue to feel a deep interest in whatever concerns our Indian brethren; and should trials and difficulties hereafter overtake you, we shall endeavor to be prepared to embrace every opportunity availingly to assist you, and to plead your cause.

The committee now withdrew, leaving the Indians in consultation upon the matters that had been laid before them. By the following letter, since received from our friend Griffith M. Cooper, we have been informed of the result of their deliberations:

BUFFALO RESERVATION, STATE OF NEW YORK,
4th month 15*th*, 1842.

MY DEAR FRIEND: After the committee of Friends had closed their labors, and withdrawn from the general council of the Senecas, on the 11th of this month, I continued here, in accordance with the request of the committee, and regularly attended the council every day, for the purpose of giving such further information, on behalf of Friends, as might be desired.

The conditions of the proposed supplemental treaty had been so clearly opened and explained to the chiefs, that they appeared fully to understand all its provisions. There was a very general attendance from the four reservations, and a deliberate discussion, upon every article of the treaty, took place. The council, which had been opened on the 9th instant, met daily, and did not close its sessions until this evening, when the question upon the acceptance or rejection of the proposed treaty was finally decided.

In a letter addressed by the Indians to the Secretary of War, and which they have requested me to transmit to the committee, to be by them delivered, they say:

"We agree to accept of the proposition for a supplemental treaty, as that treaty has been read and explained to us by the committee of the Society of Friends, and to give our assent, in due form, to said treaty, when it shall be presented by the proper officers on the part of the government of the United States, and when the Ogden Company shall have complied with the stipulations of said treaty on their part;" and "we request the government to make the necessary arrangements for the execution of said treaty, by sending the necessary officers on the part of the government of the United States, and of the State of Massachusetts, and of the Ogden Company, to meet us in council, on the Buffalo Creek reservation, on the 16th day of May next, or at the earliest convenience of the government."

This letter was signed by 79 chiefs, which included all of them that were present, except two.

Although the council have, as here stated, agreed to accept the treaty on the conditions offered, yet, at the same time, they have informed the Secretary of War that they are very desirous to be allowed a longer time than is limited to remove from the improved lands now agreed to be relinquished; and have also requested a modification of some of the other conditions, which they have explained to the Secretary, and requested the aid of Friends in effecting.

The council, in concluding their communication to the Secretary of War, further say:

"We have strenuously maintained, and we still believe, that the Seneca nation, as such, never has assented to the sale of our lands to the Ogden Company; but we think this compromise better for us than to adopt any other means in our power for obtaining redress; yet, as an injured and oppressed people, we throw ourselves upon the mercy of the government, entreating that, if it be possible, the government would obtain for us these proposed alterations. But if this cannot be done, we must submit to our fate."

Notwithstanding we have not gained for the Indians all that we could have desired, yet it is a circumstance most gratifying to us that, by this arrangement, the forcible expulsion of these greatly injured people from the country descended to them from their forefathers is prevented; and that, although, under this arrangement, they will be deprived of a portion of their lands, yet they will receive some compensation for the part now to be alienated, and it is believed will retain a sufficiency on which they may, with industry, secure a comfortable subsistence.

Situated as we now are, our position towards these people has become one of deep responsibility. They are poor, and feel very helpless. They believe there are none but the Society of Friends on whom they can safely rely, and they have an unshaken confidence that we will not desert them; and this opinion has had a powerful influence upon their recent deliberations.

They have arrived at a crisis never before presented; and a large field for labor is about to open, in which their friends may use the means which a benevolent Providence has put in their power to rescue from extinction and secure the civilization of this remnant of the Seneca nation of Indians, and I greatly desire that our hearts may respond to the call. The circumstances by which they are surrounded, and their almost universal desire for education and improvement in the arts of civilized life, conspire to insure to our labors a favorable result, and to crown our exertions with a successful and happy conclusion.

The council which has just been dissolved was closed with an expression of fervent gratitude to the Great Spirit for his continued goodness in keeping the chain of friendship bright between their old friends, the Quakers, and the Seneca nation, and with the expression of an earnest desire that this friendship may never be dissolved until the Senecas shall cease to exist.

It affords me a sincere gratification to be able to add, that by this effort on the part of Friends, which is about to be brought to so happy a termination, the animosities that had been engendered amongst the Indians by artfully designing individuals, on the question of their emigration to the west, are likely to become healed, and that peace and concord will again be restored amongst them; all parties having appeared cordially to unite in the final conclusions of the late council, and to have separated with a manifestation of reciprocal good feelings towards each other.

Thy affectionate friend,

G. M. COOPER.

PHILIP E. THOMAS.

It may not be irrelevant to the subject of this narrative to state that during the stay of the committee at Buffalo a meeting for divine worship was held on the Indian reservation, and was attended by a large number of the Senecas.

On this occasion an opportunity was afforded to open some views in relation to the nature of true religion, and its happy influences on the condition of man.

It was shown that vital religion does not consist in mere abstract opinions, nor in the speculative theories of men, nor yet in the performance of external rituals or ceremonies; but in an unreserved obedience and practical adherence to the teachings of the Holy Spirit, which the Author of our being has, in his great mercy, throughout all ages of the world, been pleased to dispense to his rational and accountable creation; and that it is by the aid of this Divine illumination that man is enabled to advance in a knowledge of the attributes of the Great Spirit, and is made happier in time, and prepared while on earth for an inheritance in that kingdom of rest and peace which shall never have an end.

The reality of this illumination—its universality and its entire sufficiency for all the purposes of salvation—were demonstrated by Scripture testimony. These views were clearly opened to the audience, and were shown to be in accordance with the declaration of the inspired Apostle, when he affirmed, "the grace of God that bringeth salvation hath appeared to all men, teaching us that, denying ungodliness and wordly lusts, we should live soberly, righteously, and godly in this present world."

Towards the close of the meeting an aged chief rose and addressed the congregation in his native tongue. The impressive manner in which his communication was delivered, and the solemnity that prevailed over the audience, gave evidence that he spoke "not with enticing words of man's wisdom, but in demonstration of the Spirit and of power."

We afterwards learned that the substance of his testimony was an expression of unity with what had been spoken, and an affirmation of its accordance with his own experience. He also acknowledged his deep sense of gratitude to the Great Spirit for having favored them with the present opportunity; and then appealing in an earnest and affectionate manner to those around him, particularly to the youth, he urged them to appreciate the labors which Friends had bestowed on their account, and to treasure up in their minds the good counsel that had this day been given to them, and concluded by declaring it to be his solemn belief that it was only by obedience to the inward teachings of the Great Spirit, to which their attention had now so affectionately been commended, that they could hope to enjoy a peaceful mind in this world, or be prepared to partake of the joys of that which is to come.

Thus an additional evidence was afforded that the aboriginal mind is capable of fully comprehending the essential doctrine of the Christian religion; confirming the views of the enlightened Apostle, when he declared, "that God was no respecter of persons; but in every nation he that feareth Him and worketh righteousness is accepted with Him."

Proceedings of the second Indian council, held at the Buffalo Creek reservation, State of New York, 5th month 16th, 1842.

Present—Ambrose Spencer, commissioner on the part of the United States; Samuel Hoar, commissioner on the part of Massachusetts; Abraham Dixon, delegate from the legislature of New York; Thomas L. Ogden and Joseph Fellows, agents of the Ogden Land Company; Philip E. Thomas, Moses Sheppard, Joseph S. Walton, Benjamin Ferris, John Leggett, Griffith M. Cooper, and Isaac Post, representatives from the general committee of Friends of the four yearly meetings of Baltimore, Philadelphia, New York, and Genesee; and the chiefs and headmen of the Seneca nation.

The council was called to order by Stephen Osborn, Indian agent, when Governor Black Snake, a venerable war chief of the Allegany reservation, aged above ninety years, said, through the interpreter, that if the commissioners were ready, he desired to make a few remarks. On being requested by the commissioner on the part of the United States to proceed, he said:

Brothers! I am happy to say that I feel much gratified to meet here in council the commissioner appointed by the government of the United States and the commissioners from the States of Massachusetts and New York; and also the Friends we met here on a former occasion. I desire to return thanks to the Great Spirit for preserving us all on our journey to this place. Some of you have come a long distance, and it is to the protection and goodness of the Great Spirit that we are indebted for our preservation and for whatever good we enjoy.

I have been instructed by the chiefs who are here to inform you that only part of our number are now present. We expect the remaining chiefs from Cattaraugus will be here this afternoon, and the Tonawanda chiefs will be here by to-morrow at 10 o'clock.

To which the commissioner on the part of the United States replied:

Brothers! I am here as commissioner on the part of the United States, by whom I have been delegated to meet you this day in council. The gentleman on my right is a commissioner appointed to attend on the part of Massachusetts, and the gentleman on my left has been delegated to attend here on behalf of the senate of the State of New York. We unite with you in returning thanks to the Great Spirit for bringing us together, that we may deliberate on the matters about to come before us. The subject is one of vast importance to you. You are aware that *we* can have no possible interest in the issue; and we hope and trust, with the blessing of the Great Spirit, that our conference will be followed by happy results, both to you and to all others that may be concerned.

Inasmuch as it appears that only a part of your chiefs are now present, we propose to adjourn the council until to-morrow at 10 o'clock, when we hope the matter will be brought to a satisfactory conclusion. Till then, we bid you farewell.

The council then adjourned.

Third day—fifth month 17, 1842.

The council met pursuant to adjournment. Present, sixty-four chiefs.

The chiefs were asked if those present were ready to proceed.

N. T. Strong, an educated chief from the Cattaraugus reservation, re-

marked that they "had better not go too fast." It appeared that there were but three chiefs present from Tonawanda, and they were not ready. More would arrive by noon. All the Alleganies were present who were expected. A chief from Tonawanda said that the Indian agent had never notified them of the council. They first heard it from the Friends whom they saw at Lockport.

John Hudson, a chief, observed that runners had been sent to bring in the chiefs from Tonawanda and Cattaraugus reservations, who had not yet arrived: the council was therefore not ready to proceed to business, but they expected the absent chiefs would arrive to-day by noon.

The commissioner on the part of the United States:

Brethren! We met you here yesterday according to the appointment of the Secretary of War, and supposed all the chiefs had been notified of the meeting. Mr. Osborn, the Indian agent, told me that he gave notice to several of the Tonawanda chiefs of the meeting to be held yesterday, and I now wish to know whether the majority of those present are for proceeding now, or putting it off till 12 o'clock.

Upon the question being taken, it appeared that a majority of the chiefs were in favor of at once proceeding to business; upon which the commissioner on the part of the United States remarked that, notwithstanding the council would now proceed, if any more chiefs came in and wished information, it would be given. He then addressed them as follows:

Chiefs, headmen, and warriors of the Seneca nation of Indians residing in the western parts of the State of New York:

Brethren! Your great father, the President of the United States, has appointed me a commissioner to hold a treaty with you respecting a modification or change of a treaty made by you with the United States on the 15th of January, 1838.

The Commonwealth of Massachusetts, to whom belonged the right of pre-emption to a large part of western New York, and particularly your reservations, has appointed the Hon. Mr. Hoar as a superintendent of our proceedings, the more effectually to guard and protect your rights.

The Hon. Mr. Dixon also appears here, under a resolution of the Senate of New York, for the like purpose.

I now come before you clothed with the authority of the United States, as such commissioner of the United States, to enter upon the business of my appointment.

Brethren! Your great father, the President of the United States, has heard your complaints against the late treaty, by which you conveyed to Messrs. Ogden and Fellows all your four remaining reservations, the Buffalo creek, the Cattaraugus, the Allegany, and the Tonawanda. The treaty made on the 15th day of January, 1838, after an amendment by the Senate of the United States, was again submitted to you and received your sanction; and on the 4th day of April, 1840, it was proclaimed by the then President, Mr. Van Buren, as the law of the land, and as such is binding on you and them.

Brethren! Your steadfast, and benevolent, and best friends, the Quakers, believing that the treaty of the 15th day of January, 1838, as amended, had been improperly obtained, and that its provisions were hard upon you, particularly as it compelled you to emigrate to a region west of the Missouri,

against the will of many of you, have exerted themselves to the utmost to obtain an alteration of that treaty, and, through the instrumentality of the Secretary of War, have at length succeeded in inducing the Ogden Company—so called, that is—the persons benefited by that treaty, as having the right of pre emption to your reservations, to consent to a modification or change thereof.

Brethren! By this modification or change you will retain and have restored to you two of the four reservations, the Cattaraugus and the Allegany, and these you and your posterity can hold, occupy, and enjoy forever, if your race continues, and if you and your posterity choose to keep them; and thus you will be spared the necessity of emigrating, and the treaty of 1838 will still remain in force as to those who choose to emigrate.

Brethren! The treaty now about to be offered to you is the same, with one exception, that was read and explained to you by your friends, the Quakers, at a council held with you on the 9th of last month, and which 79 of your chiefs, under their signatures, informed the Secretary of War had been accepted by you.

By the kind interposition of the Secretary of War, the time for your removal from the Buffalo creek and the Tonawanda reservations has been extended to two years instead of one, leaving such of you as may wish to remove at an earlier day at liberty to do so, and providing to such as wish to remove before the expiration of two years prompt payment for the improvements they may relinquish; and this is the only material alteration from the project of a treaty submitted to you on the 9th of last month.

Brethren! You also made two other requests; one that 2,500 acres of the Tonawanda reservation might be reserved to your brethren who reside on that reservation, and another that the privileges you had granted to the Hydraulic Company should be secured to them. It was found impracticable and inexpedient to insist on these requests. The agreement between you and the Hydraulic Company is a private and personal concern, with which the United States have nothing to do; and the persons interested must negotiate with the Ogden Company, who I trust will do what is just.

Brethren! I have already said that, by the treaty now submitted to you, and to which you have informally agreed at your council in April last, you will have receded to you, in as full right as you ever enjoyed them, the Cattaraugus and the Allegany reservations. I will now proceed to read over and have interpreted the treaty now proposed to you.

[The treaty was then read by paragraphs, and interpreted to the council.]

Brethren! I shall say noting to influence you. It is for you to determine, with the advice and assistance of your real friends—friends who have labored and toiled for you—whether the treaty now offered to you is or is not greatly to your advantage, and much more so than the treaty of 1838.

It is my duty, and I am armed with power for that purpose, to take care that your deliberations shall be free, and that our councils shall not be interrupted. It is my duty also to take care that a majority of your chiefs and headmen sign the treaty in a sober state of mind, and in full council.

Brethren! As a New Yorker I am proud to say that your rights, and the rights of all the Indian tribes within our borders, have always been respected and observed, and that you, and all the Indians in this State, have been treated justly and humanely. We mourn over your misfortunes and your decrease in numbers, and we would do all in our power to elevate your

condition—to civilize and christianize you; and we pray the Great Spirit may direct and preserve you."

The commissioner from Massachusetts addressed the council as follows:

"My Friends: I am very happy of the opportunity afforded me of meeting you on this occasion. I am very glad and thankful to the Great Spirit that he has preserved so many of you, and brought you together in health at this time, that you may deliberate upon a subject of great importance to you. The State of Massachusetts, in whose behalf I come, feels an interest in your welfare. The governor of Massachusetts has directed me to come here to meet you on this occasion, and to furnish you such aid as is due you from the State of Massachusetts. I am not instructed to advise you to sell your land, or part with it, or remove from it, or from any portion of the same, unless you shall freely choose to part with it. If you believe that you have more land than is useful to you, if you think you can make a better use of the money for which you may sell your land than of the land itself, then you may do so with the full approbation of the State of Massachusetts; but if, on the contrary, you believe that the whole of the land you now occupy is necessary for your comfort; if it is disagreeable for you to remove; if it will be inconvenient for you; I wish you to understand that the State of Massachusetts will never consent to have you removed from your present possessions: they consider you as having the right to decide on the question of sale; they do not intend to judge what will be for your welfare. My desire is to inquire if you understand the contract you are about to enter into; and if each and all of you do not understand every part of it, that you will make known your doubt, that the contract may be fully explained to you. If, after you have understood this to your satisfaction—if it has already been explained to you, as I am informed by those who are your best friends, as well as the friends of humanity, the Quakers—you now approve of the contract, then the State of Massachusetts will ratify the same, and you have their full consent to do so, and their prayers that it may be for your good.

"My Friends: I have now no more to say, but to attend to the negotiation as it proceeds; and if I can be assured that you are satisfied with it, I shall be content, as I shall be sure that my duty has been performed."

The commissioner on the part of the United States: "I do not rise for the purpose of entering into any argument at all; but I do feel called upon to make a few remarks in consideration of what has been said by the commissioner from Massachusetts. I have no personal interest whatever in the matter. The trifling sum I receive for coming here will hardly pay the necessary expenses of my journey hither. I trust that the age to which I have arrived, the public services I hope I have rendered, will secure me in your opinion that I have no desire to misrepresent the matter.

"The honorable commissioner on the part of Massachusetts has not said one word concerning the treaty of 1838. That treaty has been approved; it has gone through all the forms of law, and has been ratified in such a manner by the Senate of the United States, that your father, the then President, Mr. Van Buren, proclaimed it as a law of the land, and it is binding upon all. I know it has been loudly complained of by you; I know that your best friends, the Quakers, have complained of it; I know, also, that they have endeavored, by every effort in their power, to prevent that treaty from being ratified by the President and Senate of the United States. They have taken counsel in the case; and notwithstanding all the

objections to it, upon the fullest and deepest consideration they have been able to bestow upon the subject, they have been induced to recommend the treaty that has been presented for your adoption. It is not for me, nor do I mean to give any opinion as to the validity of that treaty. It stands upon the statute book as the law of the land. In view of the disagreements, the difficulties, the lawsuits that may arise, I understand the Quakers here to say that it is their opinion that what they have advised is for your best interest. Having availed yourselves of their advice, you are to act freely; and if, upon the view of the whole subject, you are satisfied on the whole that it will be best for you, amen! But if, on the contrary, you decide to reject the contract, the government has no more to say, and I shall not complain."

The commissioner from Massachusetts replied:

"My Friends: I think it due to the gentleman who is appointed commissioner on the part of the United States, as well as to you and to myself, to say one word more. I am gratified that the views that I have entertained and expressed are so much in accordance with his, and I can fully approve of what he has said. It is true I did not mention the treaty of 1838; it was not because I had not heard of that treaty, but because I did not desire to give any opinion about it, or of its validity. I did say, and I now repeat to you, that the Friends will not intentionally deceive you. I may have an an opinion—a very decided one: you yourselves know if your contract was fairly made; on this point I do not desire to speak, but I wish you to understand that I desire you to be left free to decide on that point for yourselves. If you should think that a judicial trial of your rights with the Ogden Company on their claim, under the treaty of 1838, would be expensive and troublesome to you, it may be very proper for you to take this expense and trouble into your consideration, in determining whether it is best to accept the treaty and compact now offered to you."

The chiefs of the council requested the remainder of the day to themselves, that the several tribes might consult together. To which the commissioner on the part of the United States replied:

"I treat with the whole Seneca nation, and not with the separate tribes. I have no objection to their consultation, but I must have a reply of the whole nation, and not from the separate tribes. I would observe that, although my friend, the commissioner from Massachusetts, uses a little different language from me, our opinions concur. We are here from a great distance, and at considerable expense, but will adjourn to 10 o'clock tomorrow morning, and wish you would proceed as fast as possible in your consultation, and be ready to come to a decision when we meet you. And we hope you will not protract the council unnecessarily, but diligently use the time till to morrow."

The council then adjourned till 10 o'clock to-morrow.

Third day—afternoon, 4 o'clock.

The council again met at 4 o'clock this afternoon, when the commissioners and the committees of Friends, by invitation from the chiefs, attended.

The commissioner on the part of the United States addressed the council as follows:

"Brothers and Friends: I did not expect you to meet again until tomorrow; but, having been informed that you have not correctly understood

the commissioner from Massachusetts, we have returned that he may make an explanation to you."

The commissioner from Massachusetts then said:

"Friends and Brothers: I should be extremely sorry that any thing I should have said should produce injury or suffering to you. I have been informed that some of the chiefs now present have intimated that I said you might consider yourselves untrammelled by the treaty of 1838, and that the State of Massachusetts would defend you in your present possessions, unless you should now prefer to part with them. What I intended to say was this: the governor of Massachusetts sent me here to ascertain whether you clearly understood the bargain you were about to make; and that, understanding all the facts in the case, you should yourselves determine whether it was best for you to agree to the proposed treaty or not. I desired that you should take into consideration all the circumstances connected with the subject, and that you should then yourselves decide what was best for you to do.

"It is true, as has been stated by the commissioner on the part of the United States, that I did not speak to you about the treaty of 1838. The reason was, I did not intend to give any opinion on the validity of that treaty. I had heard that some of you believed it was fraudulently obtained; others thought differently. My government did not authorize me to give any opinion on that point. I repeat to you that on this subject I did not intend to give you any opinion. Your circumstances are well known to the Friends who are now present, and I refer you to them, as your sincere friends, for advice. That treaty exists: whether it be good or bad, I give no opinion; but I would say, if you want an opinion, why should you look to me for one? I was not sent to give it to you. You have friends here who are fully able and willing to advise you; they know more about it than I do. They know your wants; they can judge for you; and I now again refer you to them."

The commissioner on the part of the United States remarked:

"Your friends, the Quakers, at the council held with you in April, gave you their advice in writing. There may be some here present who did not hear that advice; do you desire again to have it read?"

A number of the Indians expressed a wish to hear it, and it was read and interpreted to them.

After reading this communication, Philip E. Thomas addressed the council as follows:

"Brothers! We have this day repeated the words that we spoke to you at the former council, when, by permission of the Great Spirit, we were favored to meet at this place; we have repeated these words to you as the deliberate judgment of your Friends.

"We did then believe, and we still continue to believe, that, by the treaties into which you had been drawn, before we had any knowledge of your situation, your condition had become one of great difficulty and embarrassment; and, after much and anxious inquiry into all the circumstances of your case, we could see no way by which you might procure relief but by accepting the proposed supplemental treaty that had been obtained for you, and by which a home is secured to you.

"I caution you that it will be unsafe to depend either upon Massachusetts or New York for protection. After what you have this day heard, you can have no hope of relief from them; and it is proper you should distinctly understand this. The people and authorities of those States are

friendly to you, and they sincerely desire your welfare; but so far as regards any ability to extricate you from your present embarrassments, they, I tell you, are wholly powerless; and I repeat, that even if they have the disposition, they are not able to do it. We live under a government of laws, and by these laws the powers of the government are defined and limited.

"The commissioner from Massachusetts has admitted that he does not come here to extend to you any protection, but to see that you clearly understand the treaty upon which you are now about to act. This he has avowed is the purpose of his visit, and strictly to this object will his mission be confined.

"Brothers! It is probable that this will be the last time I may ever have an opportunity to meet you in council. It is, therefore, my duty to speak plainly and frankly; and I now again tell you that you are surrounded by many serious difficulties; which not only threaten your personal safety, but eventually may even lead to the dispersion and ruin of your nation.

"I make these remarks that you may not be ignorant of my opinion as regards your real situation. I have devoted much of my time within the last two years to your concerns. Indeed, I believe I can say that I have given more of my attention to them than to my own affairs, and have had the opportunity of becoming thoroughly acquainted with them; and I now earnestly admonish you to beware of any precipitate or rash conclusion. Think well before you decide. For myself, I plainly declare that I see no avenue by which you can possibly escape from the perils that encompass you, but by accepting the proposed supplemental treaty. Believe me, that it will not be wise in you to depend either upon the State of Massachusetts or New York for any available protection. I plainly warn you not to do this, because it is important that you should, as regards this matter, remain under no mistake.

"Brothers! We have now opened our hearts freely and fully to you. You know us too well to doubt for a moment our sincerity, or to believe that we are capable of intentionally deceiving you.

"Brothers! It only remains for me to assure you of my fervent desires that the Great Spirit may continue to you the extension of his goodness and protection, and that he will so overrule your counsels on this momentous occasion, that your deliberations may result in the lasting good of your nation and people."

The delegate on the part of the legislature of New York then rose and said: "I appear here by virtue of a resolution of the senate, as a delegate from the legislature of the State of New York.

"Brothers! You know that this State has always treated the Indians with indulgence and humanity. We have enacted many laws for your protection and benefit, granted you liberal annuities, and paid them punctually; and we have never taken from the red man his lands in any other manner but by honorable purchase and a fair equivalent. The people of this State have deeply sympathized with you in your difficulties with the Ogden Company in relation to your lands. The legislature participated in this feeling; and while they had the subject under consideration the last winter, they were rejoiced to learn that a door had been opened by which you might escape from dangers which you and others thought awaited you, and they sent me to be present on this occasion to give you such assistance and advice as I could. But it is important you should understand the nature

of the aid which the State proposes to give, and that you should know that all she can do for you is to give you counsel, instruction, and advice, and enable you fully to understand the stipulations of the treaty which is now offered for your adoption or rejection.

"You are under the protection of the laws of this State, and to a degree you are liable to their exactions and restrictions, like our own citizens. Ours is a government of laws, and not of force. It is impossible to protect our own citizens against improvident contracts of their own making: when, therefore, it is said by our friend from Baltimore, Mr. Thomas, that the State is powerless to relieve you from the embarrassments of the treaty of 1838, he states no more than is true in relation to our own citizens. If that treaty should be pronounced valid by our own courts, it would not be possible for the State of New York to extricate or relieve you from the execution of it. If the State were disposed to do so; if we should rise in arms to protect you in the possession of your lands, we could not do it—we are but a handful when compared to all the people of the United States who would come against us.

"You have already been told that it is not the business of the commissioners to give you legal advice, and to declare whether the treaty of 1838 is valid or invalid. These benevolent gentlemen who have espoused your cause, and devoted themselves with such untiring perseverance to your welfare, and to your relief from this embarrassment, may truly and emphatically be styled your friends and the friends of humanity. They have told you that they have taken the best legal advice the country affords; and that the result of these inquiries is, that the treaty being executed according to the forms of law, it is considered doubtful whether it can, by the courts, be declared void. I do not say that this is my individual opinion. This is a very grave question, upon which I am not willing at present to hazard an opinion; and if I should, it would be entitled to very little consideration if it should differ from the very high authority which they have obtained.

"If you deem this question important to your present deliberations, and are not satisfied with the advice you have already had on the subject, you ought to deliberate further, and take the counsel of men learned in the law for yourselves. I hope, brothers, that your deliberations will result in unanimity at present, and in your final happiness and prosperity."

The commissioner on the part of the United States addressed the chiefs as follows:

"Brothers! We shall meet again to-morrow. In the mean time I beg you to reflect on what I say. There are a great many interested white persons who may state facts so as to mislead you. I advise you not to listen to them. You have heard the advice of your friends, the Quakers, who, ever since the days of Mr. Penn, have been the unwearying friends of your nation. Let their words and counsel sink deep into your hearts. It comes from men who can never, who will never say aught to deceive you; who have labored and toiled, and made a long journey in the most inclement weather, to the hazard of their health and life, to give you their counsel."

John Black Smith, of the Tonawanda reservation,* "wished to say to

* The Tonawanda Indians reside on Tonawanda creek, south of lake Ontario. They have never been under the care of Friends, nor have they admitted a missionary into their settlement, and but few of them have made any profession of Christianity. A part of their clan reside in Upper Canada, and it is supposed that if compelled to remove, many of them will join their friends there in preference to emigrating either to the west or settling on the Cattaraugus or Allegany reservations.

the commissioners that he came in late, and had not heard the whole of the proceedings of yesterday and to-day, but understood that the commissioner from Massachusetts made a speech this morning, and this afternoon withdrew some of his remarks: he is afraid the commissioner has been influenced by the other commissioners and Society of Friends. There is something in this that he does not comprehend. The commissioner from Massachusetts stated that he came to protect the Indians and see justice done. We have been since told that Massachusetts has no power to protect us. What use is it for him to come here if he has no power? In former times, when the old chiefs made treaties with the Ogden Company, they always saw a commissioner from Massachusetts in behalf of the State. We have always thought they had power. He (the commissioner) reports the proceedings to the governor, who sanctions and makes them legal. We can't reconcile the two speeches. We understand, also, that there is a commissioner from New York. Our friend from Baltimore says he is our friend, but the commissioner has no power to protect the Indians. We are sorry these remarks are made on behalf of New York and Massachusetts. We think this State has a kind disposition towards the Indians."

The commissioner from Massachusetts: "My friends! I am sorry there should be a misunderstanding of any remarks I have made. If I understand my own remarks, there has been no change in the thoughts expressed to you. I have taken back nothing that I have said before, and cannot now do it. When I first addressed you I said nothing about the treaty of 1838. When the honorable commissioner on the part of the United States addressed you, and seemed to desire that I should have said something about that treaty, I told you I had not done so because I wished to give no opinion whatever about it. I said I hoped you would freely, fully, and without restraint, consider the whole subject; and if it was desirable for you to accept the proposition, you would do so, and Massachusetts would be satisfied. If, on the other hand, on consulting your friends here—who are your true friends—you should think best not to accept this treaty, then reject it. In saying this, I hope you will understand that I wish you not to keep out of the case the *consideration* of that treaty—you ought not to forget it. I hope you will not think it hard that I do not give an opinion on its validity.

"The governor of Massachusetts did not send me here to express such an opinion; I do not know the facts in the case. Some have asserted that the treaty was obtained by improper means; others say differently. I do not know the facts, and therefore I cannot give any opinion upon the subject. It has been stated that in all the treaties Massachusetts has had a commissioner here. Massachusetts had a pre-emption right. In the sale of it she reserved a right to see that the Indians were dealt with fairly and justly. If, in the present treaty, the commissioner from Massachusetts should think you were dealt unfairly with, and should withhold his approval, everybody would consider it a nullity, because Massachusetts reserved a right to have a voice in these transactions. Now, if understanding the facts, you think it best to make this contract, I am ready to approve of it on the part of Massachusetts. What Mr. Thomas means by saying that Massachusetts has no power, is, that the power of Massachusetts extends only to the lands lying within the State of Massachusetts, and your lands lie not in that State.

"The courts of Massachusetts have no more power here than those of any

other State or nation under heaven. You see that the agent for Massachusetts did give his assent to the treaty of 1838—whether right or wrong, he did do it. That assent was submitted to the governor and council of Massachusetts, and by that body was accepted and approved. It will therefore follow that, as respects the treaty of 1838, the gentleman who addressed you from Baltimore is correct in saying the Commonwealth of Massachusetts is powerless here."

The commissioner on the part of the United States:

"Brothers! I will explain one fact to which the gentleman has not adverted. All the lands lying between here and Herkimer were, at the time referred to, unsettled lands—not a soul living on them except Indians. There is one chief here (Governor Black Snake) who knows these facts: all the lands from here to the German flats were inhabited only by Indians at the end of the revolutionary war in 1783. These lands were called 'Crown lands,' and were claimed to belong to the King of Great Britain, and were granted by him to those who had purchased, by license, from the Indian nations. When the American people proclaimed and maintained their independence, and a treaty was made between us and the King, George III, these lands were relinquished to the United States, and the line run through the middle of lake Erie and Niagara river on the west. Massachusetts, who had a charter from the King for all the lands from the Atlantic to the Pacific ocean, maintained that by these grants all the lands west of the settled part of New York belonged to that State. It became a question between New York and Massachusetts. It was settled in 1786 by a treaty at Hartford, Connecticut, whereby New York agreed that Massachusetts' right should commence one mile west of Geneva or Seneca lake, and take in all west of that in the State, with the exception of one mile on Niagara river. Massachusetts ceded the right of jurisdiction to this territory, retaining the right to buy of the Indians. In that contract, made at Hartford, between New York and Massachusetts, this very right is recognised, in behalf of which the commissioner from Massachusetts appears, to see that justice is done, and that every thing is done with your free consent. And now, my friends and brothers, with what I have said I take leave of you till 10 o'clock to-morrow, with the hope that you will proceed, and bring the subject to a close as soon as possible, but with due deliberation. Your friend from Baltimore stated that this State could do nothing for you. He was right; the State of New York, as he has told you, is powerless. The Ogden Company's right of pre-emption comes from Massachusetts, which has always done justly; but *they* can do nothing in this case, for they have no power at all."

[As the council was about to adjourn, a desire was expressed by a majority of the chiefs to extend the time mentioned for adjournment; the council was accordingly adjourned to fifth day morning, at 10 o'clock.]

Fifth day—3 o'clock, p. m.

Since the adjournment on third day, up to this time, the chiefs were in council together; they now expressed their readiness to meet the commissioners and continue the business of the meeting.

Griffith M. Cooper addressed the chiefs as follows:

"Brothers! It has appeared to our minds that our services are about drawing to a close, though a fact attends the circumstances that to me is

personal, and in which my reputation as a man is involved. You recollect, my friends, that some two or three years since you sent a deputation to consult the Society of Friends, wishing us to interest ourselves in your behalf; and you also recollect that at that time, and subsequently, you requested us that after we should have done all in our power in relation to this treaty matter, we would honestly and candidly so inform you. From that period to the present we have been laboring for you indefatigably, and we came here last month to inform you of the result of our labors. We told you candidly and honestly, then, that we had accomplished all we could for you. The present compromise you are now deliberating upon is that result. At the time when the proposed treaty was laid before you, it was explained, I apprehend, to the understanding of every chief who heard it. It would be a reflection upon you for me to suppose you did not understand it; and after that instrument was read and explained to your satisfaction, a copy was laid upon your table; and you also recollect that after your Friends left you I remained with you six days. Therefore you had sufficient time to deliberate upon every article of that instrument. The result was, that out of eighty one chiefs seventy nine signed the paper, saying to the Secretary of War that you would accept that treaty as exhibited to you; but, at the same time, you asked of the government of the United States to make some alterations for you; but if the request could not be complied with, you would take it as it was. I now hold in my hand a copy of that letter to the Secretary of War, to which seventy-nine attached their names. You requested I should be the bearer of the same, and deliver it to the Secretary of War, and that I should interest myself in order to accomplish the alterations you desired. The request I complied with. I went accordingly and interceded, with all the influence I had, to effect these alterations. Now, my friends, I am coming upon a subject in which I am personally interested. I apprehend that my honor and integrity as a man are concerned. The Secretary of War expressed a regret that the time had not been fixed on at an earlier date; I told the Secretary that this was a deliberate act of yours, without any compulsion, and that the chiefs of the Seneca nation had never deceived me; that I had confidence they never would, and that I would pledge my word for the faithful performance on your part of all that you had agreed to. I considered that I had sufficient reason to make this pledge. I had been connected with you eight years, and you had never once deceived me, and this gave me confidence in you. You will also recollect that at the time the contract was explained to you, you were informed that unless you complied with the conditions, the government would not send a commissioner here; that it would be attended with great expense; but that if you did accept it, the government would send a commissioner on its part, and also Massachusetts. In this paper you requested the Secretary to send a commissioner on the 16th of May, or at its earliest convenience, to ratify this treaty. Now, my friends, I appeal to every individual of you if you are not personally implicated with me. Inasmuch as I consider my word as sacred as my life, I shall hope you will consider your word as sacred as I do mine. I have said in the commencement it seemed as though our labors were drawing to a close; because, as we had understood that there is a great division among those who had signed the contract, I was led to believe you would not fulfil the word I had pledged for you. Now, if you have altered your minds on this subject, I don't want you to involve me in the difficulty. I have felt, my friends, at many times willing, if permitted

through kind Providence, to devote my life to your service. Now I wish to ask you, my friends, one question. Suppose you do not think proper to fulfil the pledge you have made, and the pledge I have made for you; can any of you reasonably suppose I can go hereafter to Washington on a mission on your behalf? What would the government say? Why, 'You have been here once before; you have put confidence in the Indians; they have deceived you, and you have deceived us, and therefore you can retire!' That must be the reply. They would never negotiate with me as your agent, nor do I apprehend they would negotiate with you. I must confess, my friends, that within a few days I have felt much anxiety on account of my character and reputation, and also on account of yours. I want to take up as little time of the council as possible; but I thought proper to make these few remarks, and leave you to act according to your own counsel and discretion."

John Black Smith "understood that the compromise (the letter to the Secretary of War) was written by an individual here, (Mr. Cooper;) and we understood from our Friend that the Secretary of War was a great man, and the Indians were to sign that paper, when it was drawn, to ask the Secretary to appoint commissioners to come here and make a treaty."

G. M. Cooper: "I call upon every chief to say if he did not understand it as I have now explained it."

Governor Black Snake "wished to say a few words to the commissioners and the Friends. Before you came in we understood you (the Friends) were about retiring. We have thought best to invite you in once more, and hear you speak. You have now explained the matter. You have related the circumstances, as they took place at the last council, all true; we did sign the paper and all its contents—it was understood by those who signed it; perhaps his nephew (Black Smith) did not understand it. I hope the Friends will stay a while and have the matter explained. I hope that these misunderstandings will all be made plain. There are many who wish to abide by that paper they have signed. I hope you will stay awhile and be easy in your minds. These remarks came from the Allegany chiefs only. The chiefs from Cattaraugus and Buffalo will speak for themselves."

G. M. Cooper remarked, "that to correct an impression which may have gone abroad that Black Smith signed the letter to the Secretary of War, he would say that Black Smith did not sign it."

Seneca White, on behalf of the Buffalo chiefs: "Brothers, the Friends! You have finished the friendly remarks you have desired to make with regard to the subject of the compromise now under consideration. You wish an explanation of the understanding of that paper which we have signed, and of which you were the bearer. They (the chiefs) wish to know who was to blame—you or they. They wish to explain their views upon the subject. It is true you came here with the amended treaty. You read it in council, and made us understand all its different articles. After the explanation was made, some of the Friends returned home; but you, Mr. Cooper, remained. The chiefs discussed that treaty, and came to a conclusion that they would accept it; but it was not exactly such a one as they would like to make. Therefore the statements made by our brother, Mr. Cooper, are in all parts true, as understood by us. It is also true that the chiefs signed the paper. We then concluded we would make the compromise; it was so decided, and the statement of Mr. Cooper is true; the Indians approved of all the proceedings of the Friends, and asked their as-

sistance. They have full confidence in the Friends—they have assisted us much, and have not alienated our affections. We do not wish to have our friends withdraw, but hope they will remain and assist us in making the compromise. We are now in council; all the proper officers are here—the commissioner on the part of the United States, and also for Massachusetts and New York—and we do not think our friends ought to withdraw, as we have now arrived at the proper time to make the treaty. We wish to say the Society of Friends have done their best, and assisted us a great deal, and ought not to be censured. It is we that are to blame—we are tardy—we do not progress so fast as we wish. The difficulty does not lie with you—we have some difficulty among ourselves. What people say or do, does not influence us. We wish the question may be settled, and no difficulty hereafter. We do not think that any obstacles or delays ought to break up the treaty and compromise."

Samuel Gordon, a chief: "About a month ago, the Friends came here with an amended treaty. They called a general council of the four reservations, and we met as we do now in this place. They read the paper, and we examined all its parts. They said we should have an opportunity to ask questions, and they would explain. It was so done. We asked a great many questions of different parts, and they explained. They continued in council six days, until they supposed every one understood it. We then came to a conclusion, and wrote that letter, which was the language of the council at that time. The remarks of Mr. Cooper, in regard to the proceedings of the last council, are true. All he has said is true; neither did he compel us to sign. The paper was read for the inspection of the chiefs, and they discussed and decided on it.

"The difficulty is among ourselves. We disagree in small matters. I will state some of those difficulties. The compromise says the Indians shall give up two of their reservations. They, on the other hand, do not wish to give them up; they cannot consent; they wish the compromise to be in this way. They would take the same number of acres that comprise the Allegany and Cattaraugus reservations, divided among all the reservations. That is the desire of the people, as well as the chiefs. They wish to stay on their own reservations. The great desire of the chiefs is to make a compromise so that the people will be satisfied. They fear, if all are concentrated on two reservations, there will be difficulties and jealousies among themselves. That is the main difficulty. They want to make such an arrangement that all difficulty hereafter shall cease. They wish now to make a compromise with the Ogden Company. Cannot they compromise so as to keep the same number of acres contained in the Cattaraugus and Allegany reservations divided among all the different reservations? They wish to satisfy the people of the Seneca nation. They want to consider and see if they can compromise so as to satisfy the people. It is not the wish of the Cattaraugus chiefs that the Friends withdraw from us; but we hope they will take hold with us, and carry through the negotiation. We have confidence in them; we believe they love us, and will do all they can for our benefit. We should exceedingly regret if our Friends should conclude to leave us. We, the Cattaraugus chiefs, beg them to remain, and not withdraw, but go on and assist in the negotiation. We hope they will have patience. It is by no means uncommon, in matters of this kind, to meet with obstacles and difficulties of various kinds. This is an important affair, and, to the Indians, of great moment. We are not far

apart; we cannot agree at once; but we believe in a little while we shall come to a united conclusion."

Jimmy Johnson, a Tonawanda chief, observed: "I would say a few words to Mr. Cooper, on behalf of the Tonawanda chiefs. I understood the paper was an invitation for a council; that it was written by Mr. Cooper. He requested the chiefs to sign it, because the Secretary of War was a great man; therefore they signed, with the understanding that when the council should meet they would have an opportunity to negotiate for a compromise."

The commissioner on the part of the United States: "Brothers! I came here under restricted power. I had not power to negotiate at large. The Secretary of War informed me that the basis or foundation of a treaty was already agreed to by you, at the advice of your friends, the Quakers, acting in your behalf with the Ogden Company; and he told me, in a letter he wrote to me, that there had been a long negotiation between you and the Ogden Company; and by his efforts in aid of your friends, the Quakers, these were the very best terms they could possibly obtain for you. And he thought he had done great things for you by the new treaty, by preventing the necessity of all the Seneca nation emigrating and leaving the State of New York. You are already informed, by the treaty of 1838, that you are, in three years, to remove and go beyond the Missouri river. This he believed would be to many of you very hard and disagreeable. He therefore interested himself in your behalf to get the very best terms from the Ogden Company, with the aid and counsel of your friends, the Quakers. Now, as a private individual, I should be glad if you could be accommodated exactly as Seneca White proposed; that is, that you might remain on your old reservations. But remember that you have made a treaty; that treaty has been proclaimed to be the supreme law of the land; and the Secretary of War believes you can never get rid of that treaty but with the full assent of the Ogden Company. You seem to think, however, from what Seneca White has said, that the Ogden Company will give you better terms. Now, Messrs. Ogden and Fellows are here as trustees of the company to whom you sold the right of the reservations, and will give you an answer for themselves here publicly, or in any way you see fit. Let me say one word farther. Many of your best friends think that instead of its being an injury to you to be concentrated on the Cattaraugus and Allegany reservations, it will be much better for you. And your friends, the Quakers, as I understand them, intend to superintend and afford succor, to educate you, and make you a much greater people than you now are. Messrs. Ogden and Fellows will answer for themselves; and if they will comply with your wishes, it will be satisfactory to me. The Quakers could get no better terms in your behalf."

Seneca White "was very happy to hear of the limited instructions of the commissioner on the part of the United States. He understood, at the close of his remarks, that the trustees of the Ogden Company were present, and would answer for themselves. It is the wish of the chiefs that they would answer the questions. We put the question to them, Will they consent to this compromise, and grant the wish of the chiefs?"

T. L. Ogden. "Brothers! I am here with my associate, Mr. Fellows, to represent what is called the Ogden Company. In speaking to the appeal which you have made to us, it may be proper for me to review briefly the history of the proposed compromise which has been offered to you. I

should commence with the fall of last year, shortly after the present Secretary of War came into office.

"I live in the city of New York; and about that time I received a letter from the Secretary of War informing me that he had received a letter from some of the Friends in Baltimore proposing such a compromise as would satisfy you, and ought to satisfy the pre-emption company. The Secretary of War requested I should proceed from New York to Baltimore, to see and converse with them. I did go to Baltimore, and had an interview with P. E. Thomas, who is now present. I asked that Friend what he had to propose. I stated that I would listen to what he had to say; that I had no right to compromise the rights of the company, but would hear any proposition he wished to make. He answered he was not authorized to speak for you; but he was your friend, and had no doubt you would approve any thing he and the society should agree to with us. Mr. Thomas then made a proposition to me on your behalf, which he desired me to lay before the pre-emption company. But his proposals were, as I considered, so at variance with the rights of the company, and so exclusively in your favor, I told him it was improper for me to listen; and if these were his final propositions, the negotiation had better cease at once. He then desired me to go the next day, and he would go, and see the Secretary of War, and ascertain if we could not agree. We accordingly met at Washington, and had a long conversation with the Secretary of War, and some progress was made towards an adjustment. I asked the Secretary what the government would do? Whether it would carry out the treaty with those Indians who would emigrate? He proposed to satisfy those who wished to go west, and protect those who remained. Such propositions were therefore made between us, and discussed at large; and I returned to New York in order to learn the opinion of the company I represented. After that, a consultation took place between the Secretary, acting for the Friends, and myself, acting for the company. The Friends were very tenacious of your rights, and made many proposals, some of which the company could not and would not accede to. Letter after letter passed between us in relation to this matter, and finally an arrangement was concluded. I then went back to Washington, and had it all reduced to writing, in the form of a treaty, which is now submitted to you. The whole matter was thus concluded by the Friends, acting for you, and the pre-emption company, acting for themselves. In the whole course of the transaction the Quakers, who do not hold to fighting, have fought your battle most valiantly. They have advocated and argued your case with a pertinacity and zeal which alone has produced the result of the new treaty. The conditions of the compromise having been agreed upon, the next step was to ascertain whether you would agree to it. The Society of Friends undertook to lay the subject before you. The trustees of the pre-emption company told you that when you gave your assent to it they would agree to it. A few days since I received a letter from the Secretary informing me that a letter of assent had been signed by seventy-nine of your chiefs, and the time had now arrived for the pre-emption company to come and consummate the agreement. Mr. Fellows and myself have accordingly come for that purpose. You now inquire whether we can enter into a negotiation, and alter the terms of the contract. My answer is, we come here not to enter into a new treaty, but to consummate the one already agreed upon. Mr. Fellows and I represent a great many persons who are interested, who have authorized us to con-

clude this treaty, but have not authorized us to make a new one. You have expressed a desire to remain on the different reservations as you are now situated. It is not for me to advise you as to the wisdom of this arrangement. It would, perhaps, be more for the interest of the pre-emption company, as it would save us the expense of buying your improvements. But that would be a departure from the commission we hold. I believe it would be much to your disadvantage; and I believe, also, that the government, which wishes to concentrate you as much as possible, would never agree to it. It would afford me great pleasure to gratify your wishes on this point; but we do not feel authorized to deviate from the compromise which has been made. It is now for you to conclude whether the agreement we have come here to execute will be executed or not. We have thought that the arrangement was highly beneficial to you, inasmuch as we have, for the sake of peace, relinquished two of the reservations, and have purchased the improvements of such as may wish to go. I need not say to you, brothers, if you reject the compromise you will stand on the rights you have under the treaty of 1838. What your rights are, it is not for me to tell you: what our rights are, I think we understand. I fervently hope the Great Spirit may dispose your minds to come to a right decision in the matters now under consideration."

John Black Smith said "he understood the compromise occupied them several days, and they had found none better that could be made; that if the contract was altered, the United States would not consent to it."

T. L. Ogden replied, that "he thought the government would not consent to the desired alteration, as it was its policy to concentrate the Indians, as much as possible, in one body."

Philip E. Thomas then addressed the council as follows: "Brothers! It has been stated to you that your Friends, who are attending this council as representatives from the four yearly meetings, believing their services to be now drawing to a close, were preparing to withdraw from you; they were about to do this, but had not come to the conclusion from any abatement of friendship for you, or of solicitude for your welfare. They supposed that they had communicated to you all the information and counsel that it would be in their power to give; and being far distant from their homes, and detained much longer from their families than they had expected, they were desirous to return as soon as they could safely leave you. Perceiving, however, from what has been here expressed, that it is your wish they should remain longer with you, they have concluded to do so."

Upon the expression of these remarks, a general feeling of satisfaction appeared to be diffused over the council.

The commissioner on the part of the United States: "Brothers! We now propose to leave you, and will meet you again to-morrow, at 10 o'clock. You have heard from Mr. Ogden a full explanation of his power, and of the mode and manner in which the treaty that has been proposed to you has been brought about. You have heard that you can expect no alteration of the treaty, in compliance with a wish expressed by several of the chiefs. Therefore the question is reduced to a single point—whether you will remain by the treaty of 1838, and abide its consequences, or accept this modified and amended treaty. The Secretary, as I told you before, expected there would be no alteration in the treaty which you agreed to at the meeting in April, except in one particular; and that particular was this: you are to remain upon your reservations, and keep your improvements, for two years

instead of one. . I have ventured, in one other particular, to alter the treaty—not in its spirit—with the advice and consent of your friends, the Quakers, in full belief that, if he were here, he would approve of it, viz: giving those who may wish to go west from Cattaraugus and Allegany, compensation for the improvements of their lands, the same as those who go from Buffalo and Tonawanda."

Council adjourned.

SIXTH DAY—10 O'CLOCK, A. M.

The council met pursuant to adjournment.

N. T. Strong rose and said, that he had been instructed to say, on behalf of the emigration party, that they were ready to vote upon the question. He also gave their views, at considerable length, of the treaty of 1838, and concluded by expressing their approbation of the present arrangement.

The commissioner on the part of the United States: "Brothers! We have heard the sentiments expressed by Mr. Strong, in relation to the emigration party. They have acted honorably. They say they are still disposed to emigrate, and execute the treaty of 1838; but are willing, by way of accommodation, to sign the treaty proposed. You have had several days to consider the treaty we have had under consideration. I am now ready to hear what you have to say. I meant to give you full time for deliberation, that you should not hereafter complain that you were precipitated into this new treaty. If you are now ready, I will hear what you have to say. Those who are now ready to give an answer to the proposed treaty, yea or nay, please to rise."

Black Smith "appealed to the commissioner from Massachusetts, and the delegate from the legislature of New York, to see that the business was done fairly; he believed the emigration party (that is, the portion of the Indians who were in favor of the treaty of 1838, whose views Mr. Strong had expressed) had no right to vote on the question."

The commissioner on the part of Massachusetts: "I am requested to state my views upon this subject. It is contended that the emigration party have no right to vote upon the question, whether you are ready to give your final decision upon the treaty. They have the same right to vote as any other part of the council. They have the same interest on this subject that the other members of the council have."

Black Smith: "They expressed their opinion through their orator; is it right for them to vote twice?"

The commissioner on the part of Massachusetts: "They did not vote; they only expressed an individual opinion. This is to be a vote of the whole. There is no difference as to the rights of the chiefs. All will have the right to withhold or to give their assent to the treaty."

Black Smith: "Then the remarks made by them were not a decision?"

The commissioner on the part of Massachusetts: "By no means."

The commissioner on the part of the United States: "I will answer the remarks of Black Smith. He objects to the emigration chiefs voting, because they have given an opinion. I came to treat, and my commission is with the chiefs and headmen of the Seneca nation. I have no authority, nor would it be right or proper for me, to say that any of the chiefs had no right to vote upon this question. As well might they object to the Tonawanda chiefs, or to Black Smith's voting, because he had expressed an opinion

against the treaty. It is a fundamental principle with the whites that a majority shall govern. Every chief having the right to vote, it is not in my power to unmake them chiefs, and deprive them of that right."

Black Smith replied: "That, being as old a man as the commissioner on the part of the United States, he wished to answer him. You stated that what they said was not their decision, but that they might vote after giving that opinion. I do not say they ought not to vote. The question was, after they had expressed their opinion, were they to vote again? You said, suppose the council should say Black Smith should not vote because he had expressed an opinion. I think it is very curious if I should not have a right to vote."

Before the question upon the acceptance of the treaty was finally taken, a motion was made by one of the Cattaraugus chiefs, that, in consideration of the losses and inconveniences to which those families would be subjected that might, by the provisions of the treaty, be obliged to remove from the Buffalo and Tonawanda reservations, the nation would, for four years, release to such families so removing the whole of the annuities that might accrue for the sale of the lands now to be relinquished. This proposal was approved and ratified by the vote of the council, with but one dissenting voice, and it manifests a liberality and love of justice highly honorable to the Senaca nation. The question on the treaty being executed was now taken, and decided in the affirmative: ayes 56.

The delegate from the legislature of New York: "As to the privilege of voting, I entirely agree with the commissioner from Massachusetts. What was said by Mr. Strong, in behalf of the emigration party, was only their opinion of the treaty, and not whether they were ready to decide. If any chief had said he wanted further time to deliberate, he would have had a right to vote upon the question put. This is precisely the way the whites transact business. The vote was a strong one. I hope you will be satisfied with the decision, and acquiesce in the will of the majority."

G. M. Cooper said: "Now, my friends, I want to say a few words to you. Notwithstanding there has been a majority in favor of the treaty, some think they are not obliged to sign the treaty. They say that yesterday certain questions were asked, and they have not had time to deliberate. They want till 3 o'clock to consider. This is reasonable, and the time desired should be allowed."

The commissioner on the part of the United States: "You have already voted, by a large majority, that you were ready to answer; but, not to precipitate matters, and to give you full time, we will adjourn to 3 o'clock."

3 *o'clock.*—The council met pursuant to adjournment.

The commissioner on the part of the United States said:

"Brothers! We have met you again according to adjournment. You have declared yourselves, at our last meeting, ready to proceed with the business which has called us together. The treaty now to be laid before you has been carefully compared with the original, which has been read to you. The commissioner from Massachusetts, the Senator from New York, your friends the Quakers, and myself, have all examined it, and found it correct. If you have confidence in us, and in your friends, I suppose it will not be necessary to read it again to you, and we shall proceed to the execution of the treaty."

The Allegany Indians, expressed a wish that they should have the same

privileges extended to them as had been extended to the Cattaraugus Indians, which were that those who should emigrate should be paid for their improvements. The commissioner on the part of the United States inquired "if there was any objection on the part of the Buffalo and Tonawanda Indians to this proposition?" Only 17 votes appeared against it, and the proposal was agreed to.

Explanations were made showing that the Indians who may emigrate to the west are not to have any voice in the sale of the Cattaraugus and Allegany reservations when a sale shall be made, but that they will then receive their proper proportion of the proceeds.

The commissioner on the part of the United States: "Messrs. Ogden and Fellows have now executed a deed conveying to the Seneca nation the two reservations of Cattaraugus and Allegany. Will you now come forward and sign the treaty?"

A chief inquired "if the company would permit the people on the Tonawanda and Buffalo reservations to have fire-wood during the two years they might remain, and take away that which is already cut?" To which Ogden and Fellows replied in the affirmative.

Daniel Twoguns, one of the chiefs, asked "whether a large quantity of wood and lumber, which was already cut and sawed, might be removed?"

Ogden and Fellows: "The Indians may take away and dispose of all that is cut."

Twoguns: "I am enclosing a field of 97 acres. Will this improvement be paid for?"

Ogden and Fellows: "That is provided for in the treaty. It will be paid for."

Twoguns: "Amendments have now been made to the treaty, although the commissioner said, when the subject was first opened, that he was restricted to the treaty as it was sent here from Washington, and not five minutes afterwards he himself proposed an alteration."

The commissioner on the part of the United States: "Brothers! There has been no departure from the spirit of that treaty. The Indians, at their own request, have, by the alterations, been allowed to sell their improvements on the Cattaraugus and Allegany reservations, in order to enable them to remove, if they should wish to emigrate."

John Black Smith: "Brothers! We shall this day witness the consummation of the object of our visit. I have but to say I dissent in toto, and do not consent to the compromise. My opinion is, that it is the same in nature as the treaty of 1838. That treaty was made before it was brought into council, and the present one was also made before it was brought here.

"Brothers, the pre emptioners: I will not say nor admit that this is a compromise treaty. Heretofore, in negotiations for the sale of our lands, it was the custom of the chiefs to say what lands they would sell: here, others say for them. This is a forced treaty. I don't know what to call it. The Tonawanda Indians have never signed any paper or deed for the sale of their lands. I did not approve of any sale, and do not now approve it. I shall not yield one inch in this matter."

The commissioner on the part of the United States: "I hope Black Smith does not impute to me any thing dishonorable or unfair. If I know the feelings of my own heart, I was prompted to undertake this service by my regard for the Indians, firmly believing that the real friends of the Indians, the Quakers, had done every thing they could to obtain, and had obtained,

the very best terms for them that they could. And as to any force, it is out of the question. No force has been used. The treaty has been submitted fairly, and ample time has been had to deliberate. In addition to myself, I can add that the commissioner from Massachusetts has been actuated by the same friendly feelings, and has been careful to explain to you the terms of the treaty. In cases like the present, it is customary, it is necessary, to prepare the papers beforehand."

A question having arisen whether the Indians could use the timber, the commissioner from Massachusetts said:

"You ought to understand that, by the present agreement, you have no right to cut wood on the land you cede. It is agreed, however, by the Ogden Company, that all the wood and timber already cut and belonging to the Indians may be taken by them. The company also concede the right to take for two years wood for fuel, fencing, and repairs of buildings; beyond this the privilege does not extend. Messrs. Ogden and Fellows also say that whatever timber belongs to the Indians on the Cattaraugus and Allegany reservations, and has been seized, shall be restored to them."

William Jones, a Seneca chief: "Some have cut saw logs for buildings; may they be taken by the Indians, for sale?"

Ogden and Fellows: "They may."

The treaty was then signed by 55 chiefs—16 refusing.

John Black Smith then rose and said, that in the commencement of the proceedings the commissioner from Massuchusetts said that when all the chiefs should sign the treaty he would approve of it on the part of Massachusetts; and as the chiefs to the number of 16 had refused to sign it, he appealed to him to withhold his assent. The first part of his speech was not taken by the reporter. The conclusion was as follows:

"I wish to thank the honorable commissioner from Massachusetts, and also the honorable commissioner from the Senate of New York, for what you have done for us. We believe you are all well disposed towards the Indian nation, and have protected them since the first treaty was made with them. You are sent here by your governments to see that justice is done to the Indians, and that they are not wrongfully deprived of their lands. One word to the commissioner on the part of the United States: None of the Tonawanda chiefs have signed the new treaty. We have unanimously rejected it. From the beginning of this negotiation we have never signed any treaty. Two gentlemen who are now present can testify that they have endeavored to induce us to sign papers; but they never could. We have never received a cent from the Ogden Company. We do not expect they will take our lands away from us; we have never consented that they should. We have 15 chiefs, none of whom have ever signed, and 615 inhabitants. They love their children; they love their nation. Now, we say to you, commissioners, we have the same mind, and shall continue so hereafter. We shall consider it a great injury, if at a future day any one should forcibly take away our rights."

The commissioner on the part of Massachusetts: "In one important particular Black Smith has misstated the remarks made by me at the opening of the council. I did not say that the consent of Massachusetts would not be yielded before the *unanimous* agreement of the council should be given to the treaty. My remark was in substance this: That Massachusetts had sent me here neither to persuade the Indians to sell their lands, nor to dissuade them from it, but to see that the Indians were made fully acquainted

with the nature of the contract proposed to them; that the operation and construction of that instrument should be made plain to their understandings; and that when they should have fully considered the offers made to them, and all the circumstances under which they were placed, and should deliberately agree to the terms of a treaty, the consent and approbation of Massachusetts would be given to the contract. To me it seems that these conditions have been now fulfilled; the terms of the treaty before you have been fully explained, and appear to be perfectly understood by all of you. It has received the assent, freely given, of a large majority of the Seneca nation here, represented by its chiefs. I can now see no reason why the consent of Massachusetts should be withheld.

The delegate from the senate of New York: "The time is so far spent, that I can say but a few words. It gives me great pleasure, representing the State of New York, to know that you are satisfied that the people of New York are the friends of the Indians. They have ever heretofore been their friends, and will, I trust, ever continue so. I have had great satisfaction in witnessing the proceedings of the council. Every thing, as far as I can see, has been done fairly and honorably. The result has been a treaty. It has been duly executed according to law, as we understand it. We understand that you are a single nation, and every part is under the control of the whole, and that all are bound by the acts of a majority, the same as white people. We hope, therefore, the Tonawanda chiefs will acquiesce, and go on to the reservations which this treaty restores to them. And we hope and believe they will there enjoy more happiness and prosperity than they can in their present state."

Benjamin Ferris: "Brothers! It was our concern for the happiness and welfare of your people that brought us here on the present occasion. If we had not thought that your best interests would be promoted by the treaty that has been offered to your consideration, we should not have been here at this present time. But it appeared to us, that if this compromise should not be accepted, you must inevitably be driven from your present homes, into the wilderness beyond the Mississippi; that sooner or later this calamity must overtake you. Under the present arrangement, the power to remain on the lands, descended from your forefathers, will be placed in your own hands. The reservations restored to you are rich and fertile, and, with due culture, are amply sufficient for the comfortable sustenance of your families. We greatly desire your prosperity, and that you may live on them in peace and harmony together.

"Brothers! We pray that the Great Spirit may so influence and direct you in all your movements, as to secure to you the benefits to be expected from a wise decision in this case, and we desire for you the blessings of happiness in this world, and in that which is to come. And now, brothers, being about to leave you, perhaps to see you no more, we bid you an affectionate farewell."

After some appropriate remarks from the delegate from New York, in which he bore testimony to the fair and honorable manner which had characterized the present negotiation, the commissioner on the part of the United States addressed the chiefs in conclusion. He spoke at considerable length, advising them to cultivate a spirit of harmony among themselves; and in conclusion, bade them farewell, invoking the Divine blessing upon them. When he had concluded, the council adjourned *sine die.*

In concluding this narrative of the late proceedings of Friends, for re-

storing to the Seneca Indians a portion of the lands owned by them in the western parts of the State of New York, it may be interesting to the younger portion of our members to be informed of the circumstances under which this concern originated in the Society of Friends.

Very soon after the revolutionary war, the settlements of white people began rapidly to extend, and in a few years to encroach upon the Indian tribes bordering on our western frontier. Previous to this time, the Seneca nation was separated from the white population by an extensive wilderness, and hitherto they had felt but little inconvenience from them. As these settlements, however, approached the Indians, they found that the game on which they had been accustomed to depend for food was fast leaving them; and, becoming greatly distressed, under the apprehension that their means of subsistence would soon fail, they made an earnest appeal to our Society, as their ancient and steadfast friends, for assistance under the difficult circumstances which now began to press upon them.

Several of these applications are still preserved. Among them we find one from Corn Planter, a distinguished Seneca chief, dated in the year 1791, in which he says:

"Brothers! The Seneca nation see that the Great Spirit intends they should not continue to live by hunting, and they look round on every side, and inquire who it is that shall teach them what is best for them to do. Your fathers dealt honestly by our fathers. They have engaged us to remember it, and we wish our children to be taught the same principles by which our fathers were guided.

"Brothers! We have too little wisdom among us. We cannot teach our children what we perceive their situation requires them to know. We wish them to be instructed to read and write, and such other things as you teach your children—especially the love of peace."

There is also a speech from Gayashuta, a very aged Seneca chief, addressed to Friends in the year 1790, which is deemed worthy of preservation. It exhibits not only a striking evidence of the confidence of these people in Friends, but affords a beautiful specimen of natural eloquence that has seldom been surpassed, viz:

The speech of Gayashuta, an ancient chief of the Seneca nation, on the borders of Pennsylvania, as given in charge by him to one of the sachems of that nation, in the year 1790, to be delivered to Friends of Philadelphia:

"Brothers, the sons of my beloved brother ONAS.* When I was young and strong, our country was full of game, which the Good Spirit sent for us to live upon; the lands which belonged to us were extended far beyond where we hunted. I and the people of my nation had enough to eat, and always something to give to our friends when they entered our cabins; and we rejoiced when they received it from us. Hunting was then not tiresome; it was a diversion—it was a pleasure.

"Brothers! When your fathers asked land of my nation, we gave it to them, for we had more than enough. Gayashuta was among the first of the people to say: 'Give land to our brother Onas, for he wants it,' and he has always been a friend to Onas and to his children.

"Brothers! Your fathers saw Gayashuta when he was young; when he had not even thought of old age or weakness; but you are too far off to

* ONAS is the Indian name for a *quill*, and by this name they always spoke of William Penn.

see him now he is grown old. He is very old and feeble, and he wonders at his own shadow—it has become so little. He has no children to take care of him, and the game is driven away by the white people, so that the young men must hunt all day long to find game for themselves to eat—they have nothing left for Gayashuta. And it is not Gayashuta only who is becoming old and feeble: there yet remain about thirty men of your old friends, who, unable to provide for themselves, or to help one another, are become poor, and are hungry and naked.

"Brothers! Gayashuta sends you a belt, *which he received long ago from your fathers*, and a writing, which he received but as yesterday, from one of *you*. By these you will remember him, and the old friends of your fathers in this nation. Look on this belt and this writing, and if you remember the old friends of *your fathers*, consider their former friendship and their present distress; and if the Good Spirit shall put it into your hearts to comfort them in their old age, do not disregard his counsel. We are men, and therefore need only tell you that we are old and feeble, and hungry and naked; and that we have no other friends but you, the children of our beloved brother Onas."

The concern from about this period continued increasingly to interest the minds of many Friends. Their sympathies and commisseration for the sufferings of our red brethren became deeply excited. They called to mind the many acts of mutual kindness and friendship that had attended the early settlement of our forefathers amongst them, and they felt themselves religiously called upon to make an effort for the relief of the remnant then left of this greatly injured people, whose utter extermination seemed to be inevitable, unless some efficient means were adopted to arrest the progress of circumstances that were now rapidly tending to their destruction.

Committees, composed of some of our most intelligent and active members, were appointed to extend care to them. These committees have been regularly continued to the present time; they have been engaged in unremitted efforts to promote the moral and social improvement of the Indian race, and their labors have been followed by great and lasting benefits to these people.

When the Senecas, more than fifty years since, first found themselves in difficulty, they turned their attention to Friends, as their only resource. In their recent troubles, they again renewed their application to the Society for aid, and the result, under the Divine blessing, has been, after a long and arduous struggle, the securing to them a home and the restoration of a portion of their lands, sufficient for all their present purposes, with increased responsibilities on our part, and a firm confidence on theirs, that we "will never desert them while they continue to exist as a nation."

The condition in which they are now about to be placed is altogether favorable for securing the benevolent objects so long desired by Friends—their elevation to the rank and enjoyment of the advantages of civilized life. Many of them, as regards their intellectual and moral condition, already occupy a position as respectable as their white neighbors. Being about to be concentrated into compact settlements, and surrounded on all sides by highly cultivated agricultural districts, they can have no sufficient resource for subsistence but the cultivation of their lands, to which many of them are now most anxious to apply themselves. Already the men here have almost universally adopted the dress or costume of the white people; and were it not for their color, they could not be distinguished from them.

They have become exceedingly desirous that their children should receive school education, and many of them are beginning to turn their attention to a division of property, and are looking forward to the time when they may be admitted to the rights and station of American citizens.

From there having been but little care extended to the Indian women, they are by no means so much improved as the men. They are still permitted to perform the labors of the field, and other drudgery, incompatible with their station as the female heads of families, and the duties that should rest upon them as the guardians and instructors of a rising generation. To this important point it is hoped the efforts and care of our women Friends will hereafter be more especially directed.

In conclusion, it may be added, that by the benevolent efforts which have been exerted to improve the condition of these people, they have been led to the very threshold of civilization. One step more, and the great object will be secured, and the question of the capacity of this race for elevation to the rank and condition of civilized life be forever settled.

A result so important to the whole Indian race cannot fail to animate their friends to renewed and increased exertions. On the issue may depend the existence not only of this remnant of a once powerful nation, but of the whole American aboriginal family. Should the fact become established, that by a judicious course of instruction the red men of our country may be reclaimed from barbarism, and become useful and good citizens, the whole policy of the government towards them may be changed, and our country saved the indelible disgrace which must inevitably follow their entire extermination.

Synopsis of the supplemental treaty.

Article 1st provides that the Ogden Company restore to the Senecas the two reservations of Cattaraugus and Allegany, with the same title to them in all things as they held them before the execution of the treaty of 1838, reserving the right to purchase the same when the Senecas may incline to sell them.

Article 2d provides that the Seneca nation agrees to relinquish to the Ogden Land Company the two reservations of Tonawanda and Buffalo.

Article 3d provides that the two reservations to be ceded shall be paid for in proportion to the relative value of the lands within all the four reservations.

Article 4th provides that this valuation shall be adjusted by arbitrators, one of whom shall be appointed by the Secretary of War, and the other by the Ogden Land Company. The umpire, or third arbitrator, to be appointed by the other two. The said valuation to be made as agreed upon in the former treaty, both as to the lands and improvements.

Article 5th provides that the forest or unimproved lands on the Tonawanda and Buffalo reservations shall be surrendered to the Ogden Land Company in one month after the award of the arbitrators shall be filed in the office of the Secretary of War, it being agreed that the amount awarded to be paid therefor shall be paid, or secured to be paid, to the Secretary of War. And it also provides that the improved lands shall be surrendered within two years from the filing the said award as aforesaid, when the value

of the improvements shall be paid to the President of the United States, to be distributed among the owners thereof.

Article 6th provides that such of the Seneca nation as may desire to emigrate from the State of New York shall be entitled, in proportion to their relative numbers, to the funds and annuities of the nation, and that should the said nation remaining in the State of New York hereafter sell these two reservations, the emigrating Indians shall, in like manner, be entitled to their share in the proceeds thereof.

Article 7th provides that the treaty of 1838 is annulled, so far as the same is inconsistent with the provisions of the present treaty.

Article 8th provides that the expenses attending the execution of this treaty shall be paid by the Ogden Land Company.

Article 9th stipulates that the parties to this treaty will solicit the influence of the United States to protect from taxes the lands of the Seneca nation while they may continue to own and occupy the same.

Emigrants from the Cattaraugus and Allegany reservations are to receive pay for their improvements when they shall choose to emigrate, out of any funds belonging to the Seneca nation in the hands of the general government; the property so improved to become the property of the nation.

F.

Treaty of 1842, *supplemental to treaty of* 1838.

JOHN TYLER,

PRESIDENT OF THE UNITED STATES OF AMERICA.

To all and singular to whom these presents shall come, greeting:

Whereas a treaty was made and concluded at Buffalo creek, in the State of New York, on the twentieth day of May, in the year one thousand eight hundred and forty-two, between the United States of America, acting herein by Ambrose Spencer, their commissioner, thereto duly authorized on the one part, and the chiefs, headmen, and warriors of the Seneca nation of Indians, duly assembled in council, on the other part; which treaty is word for word as follows, to wit:

Articles of a treaty made and concluded at Buffalo creek, in the State of New York, on the twentieth day of May, in the year one thousand eight hundred and forty-two, between the United States of America, acting herein by Ambrose Spencer, their commissioner, thereto duly authorized on the one part, and the chiefs, headmen, and warriors of the Seneca nation of Indians, duly assembled in council, on the other part.

Whereas a treaty was heretofore concluded and made between the said United States and the chiefs, headmen, and warriors of the several tribes of New York Indians, dated the fifteenth day of January, in the year one thousand eight hundred and thirty-eight, which treaty, having been afterwards amended, was proclaimed by the President of the United States, on

the fourth of April, one thousand eight hundred and forty, to have been duly ratified:

And whereas, on the day of making this treaty, and bearing even date herewith, a certain indenture was made, executed, and concluded by and between the said Seneca nation of Indians, and Thomas L. Ogden and Joseph Fellows, assignées under the State of Massachusetts, in the presence and with the approbation of a commissioner appointed by the United States, and in the presence and with the approbation of Samul Hoare, a superintendent on the part of the Commonwealth of Massachusetts, which indenture is in the words and figures following, to wit:

"This indenture, made and concluded between Thomas Ludlow Ogden, of the city of New York, and Joseph Fellows, of Geneva, in the county of Ontario, of the one part, and the chiefs and headmen of the Seneca nation of Indians on the other part, at a council duly assembled and held at Buffalo creek, in the State of New York, on the twentieth day of May, in the year one thousand eight hundred and forty-two, in the presence of Samuel Hoare, the superintendent thereto authorized and appointed by and on the part of the Commonwealth of Massachusetts, and of Ambrose Spencer, a commissioner thereto duly appointed and authorized on the part of the United States:

"Whereas, at a council held at Buffalo creek, on the fifteenth day of January, in the year one thousand eight hundred and thirty-eight, an indenture of that date was made and executed by and between the parties to this agreement, whereby the chiefs and headmen of the Seneca nation of Indians, for the consideration of two hundred and two thousand dollars, did grant, bargain, release, and confirm unto the said Thomas Ludlow Ogden and Joseph Fellows all those four several tracts of land situate within the State of New York then and yet occupied by the said nation, or the people thereof, severally described in the said indenture as the Buffalo creek reservation, containing, by estimation, forty-nine thousand nine hundred and twenty acres of land; the Cattaraugus reservation containing, by estimation, twenty-one thousand six hundred and eighty acres of land; the Allegany reservation containing, by estimation, thirty thousand four hundred and sixty-nine acres of land; and the Tonnewanda reservation containing, by estimation, twelve thousand eight hundred acres of land; a duplicate of which indenture was annexed to a treaty of the same date, made between the United States of America and the chiefs, headmen, and warriors of the several tribes of New York Indians assembled in council; which treaty was amended and proclaimed by the President of the United States, on the fourth of April, one thousand eight hundred and forty, as having been duly ratified, as by the said indenture, treaty, and proclamation more fully appear:

"And whereas divers questions and differences having arisen between the chiefs and headmen of the Seneca nation of Indians, or some of them, and the said Thomas Ludlow Ogden and Joseph Fellows, in relation to the said indenture, and the rights of the parties thereto, and the provisions contained in the said indenture being still unexecuted, the said parties have mutually agreed to settle, compromise, and finally terminate all such questions and differences on the terms and conditions hereinafter specified:

"Now, therefore, it is hereby mutually declared and agreed, by and between the said parties, as follows:

"ARTICLE 1st. The said Thomas Ludlow Ogden and Joseph Fellows, in

consideration of the release and agreements hereinafter contained on the part of the said Seneca nation, do on their part consent, covenant, and agree that they the said nation (the said indenture notwithstanding) shall and may continue in the occupation and enjoyment of the whole of the said two several tracts of land, called the Cattaraugus reservation and the Allegany reservation, with the same right and title in all things as they had and possessed therein immediately before the date of the said indenture, saving and reserving to the said Thomas Ludlow Ogden and Joseph Fellows the right of pre-emption, and all other the right and title which they then had or held in or to the said tracts of land.

"Art. 2d. The chiefs and headmen of the Seneca nation of Indians, in consideration of the foregoing, and of the agreement next hereinafter contained, do on their part grant, release, and confirm unto the said Thomas Ludlow Ogden and Joseph Fellows, and to their heirs and assigns, in joint tenantcy, the whole of the said two tracts of land severally called the Buffalo creek reservation and the Tonnewanda reservation, and all the right and interest therein of the said nation.

"Art. 3d. It is mutually agreed between the parties hereto, that in lieu of the sum expressed in the said indenture as the consideration of the sale and release of the said four tracts of land, there shall be paid to the said nation a just consideration sum for the release of the two tracts hereby confirmed to the said Ogden and Fellows, to be estimated and ascertained as follows:

"The present value of the Indian title to the whole of the said four tracts of land, including the improvements thereon, shall, for all the purposes of this present compact, be deemed and taken to be two hundred and two thousand dollars, of which sum one hundred thousand dollars shall be deemed to be the value of such title in and to all the lands within the said four tracts, exclusive of the improvements thereon, and one hundred and two thousand dollars to be the value of all the improvements within the said four tracts; and of the said sum of one hundred thousand dollars the said Ogden and Fellows shall pay to the Seneca nation such proportion as the value of all the lands within the said two tracts, called the Buffalo creek and Tonnewanda reservations, shall bear to the value of all the lands within all the said four tracts; and of the said sum of one hundred and two thousand dollars the said Ogden and Fellows shall pay such proportion as the value of the improvements on the same two tracts shall bear to the value of the improvements on all the said four tracts.

"Art. 4th. The amount of the consideration moneys to be paid in pursuance of the last preceding article shall be determined by the judgment and award of arbitrators, one of whom shall be named by the Secretary of the War Department of the United States, and one by the said Ogden and Fellows; which arbitrators, in order to such judgment and award, and to the performance of the other duties hereby imposed on them, may employ suitable surveyors to explore, examine, and report on the value of the said lands and improvements; and also to ascertain the contents of each of the said four tracts, which contents shall govern the arbitrators as to quantity in determining the amount of the said consideration money.

"The same arbitrators shall also award and determine the amount to be paid to each individual Indian out of the sum which, on the principles above stated, they shall ascertain and award to be the proportionate value of the improvements on the said two tracts called the Buffalo creek reservation

and the Tonnewanda reservation; and in case the said arbitrators shall disagree as to any of the matters hereby submitted to them, they may choose an umpire, whose decision thereon shall be final and conclusive; and the said arbitrators shall make a report in writing of their proceedings, in duplicate, such reports to be acknowledged or proved according to the laws of the State of New York, in order to their being recorded; one of such reports to be filed in the office of the Secretary of the Department of War, and the other thereof to be delivered to the said Thomas L. Ogden and Joseph Fellows.

"Art. 5th. It is agreed that the possession of the two parts hereby confirmed to the said Ogden and Fellows shall be surrendered and delivered up to them, as follows, viz: The forest or unimproved lands on the said tracts within one month after the report of the said arbitrators shall be filed in the office of the Department of War, and the improved lands within two years after the said report shall have been so filed: Provided, always, that the amount to be so ascertained and awarded, as the proportionate value of the said improvements, shall, on the surrender thereof, be paid to the President of the United States, to be distributed among the owners of the said improvements, according to the determination and award of the said arbitrators, in this behalf; and provided, further, that the consideration for the release and conveyance of the said lands shall, at the time of the surrender thereof, be paid or secured to the satisfaction of the said Secretary of the War Department, the income of which is to be paid to the said Seneca Indians annually.

"But any Indian having improvements may surrender the same, and the land occupied by him and his family, at any time prior to the expiration of the said two years, upon the amount awarded to him for such improvements being paid to the President of the United States, or any agent designated by him for that purpose by the said Ogden and Fellows; which amount shall be paid over to the Indian entitled to the same, under the directions of the War Department.

"Art. 6th. It is hereby agreed and declared to be the understanding and intent of the parties hereto, that such of the said Seneca nation as shall remove from the State of New York under the provisions of any treaty made, or to be made, between the United States and the said Indians, shall be entitled, in proportion to their relative numbers, to the funds of the Seneca nation, and that the interest and income of such their share and proportion of the said funds, including the consideration money to be paid to the said nation in pursuance of this indenture, and of all annuities belonging to the said nation, shall be paid to the said Indians so removing at their new homes; and whenever the said tracts called the Allegany and the Cattaraugus reservations, or any part thereof, shall be sold and conveyed by the Indians remaining in the State of New York, the Indians so removing shall be entitled to share in the proceeds of said sales in the like proportion. And it is further agreed and declared, that such Indians owning improvements in the Cattaraugus and Allegany tracts as may so remove from the State of New York shall be entitled, on such removal, and on surrendering their improvements to the Seneca nation, for the benefit of the nation, to receive the like compensations for the same, according to their relative values, as in the third and fourth articles of this treaty are stipulated to be paid to the owners of improvements in the Buffalo creek and Tonnewanda tracts, on surrendering their improvements; which compensations may be ad-

vanced by the President of the United States, out of any funds in the hands of the government of the United States belonging to the Seneca nation; and the value of these improvements shall be ascertained and reported by the arbitrators to be appointed in pursuance of the fourth article.

"ART. 7th. This indenture is to be deemed to be in lieu of, and as a substitute for the above recited indenture made and dated the fifteenth day of January, one thousand eight hundred and thirty-eight, so far as the provisions of the two instruments may be inconsistent or contradictory; and the said indenture, so far as the same may be inconsistent with the provisions of this compact, is to be regarded, and is hereby declared to be rescinded and released.

"ART. 8th. All the expenses attending the execution of this indenture and compact, including those of the arbitration and surveys hereinbefore referred to, and also those of holding the treaty now in negotiation between the United States and the said Seneca nation, except so far as may be provided for by the United States, shall be advanced and paid by the said Ogden and Fellows.

"ART. 9th. The parties to this compact mutually agree to solicit the influence of the government of the United States to protect such of the lands of the Seneca Indians, within the State of New York, as may from time to time remain in their possession, from all taxes, and assessments for roads, highways, or any other purpose, until such lands shall be sold and conveyed by the said Indians, and the possession thereof shall have been relinquished by them.

"In witness whereof, the parties to these presents have hereunto, and to three other instruments of the same tenor and date—one to remain with the United States, one to remain with the State of Massachusetts, one to remain with the Seneca nation of Indians, and one to remain with the said Thomas Ludlow Ogden and Joseph Fellows—interchangably set their hands and seals the day and year first above written."

Therefore, taking into consideration the premises, it is agreed and stipulated by and between the United States of America and the Seneca nation of Indians as follows, to wit:

First. The United States of America consent to the several articles and stipulations contained in the last recited indenture between the said nation and the said Thomas Ludlow Ogden and Joseph Fellows, above set forth.

Second. The United States further consent and agree that any number of the said nation who shall remove from the State of New York, under the provisions of the above-mentioned treaty, proclaimed as aforesaid, on the fourth day of April, one thousand eight hundred and forty, shall be entitled, in proportion to their relative numbers, to all the benefits of the said treaty.

Third. The United States of America further consent and agree that the tenth article of said treaty, proclaimed as aforesaid, on the fourth day of April, one thousand eight hundred and forty, be deemed and considered as modified, in conformity with the provisions of the indenture hereinabove set forth, so far as that the United States will receive and pay the sum stipulated to be paid as the consideration money of the improvements therein specified, and will receive, hold, and apply the sum to be paid, or the securities to be given for the lands therein mentioned, as provided for in such indenture.

In testimony whereof, the undersigned, Ambrose Spencer, commissioner on the part of the United States of America, and the undersigned chiefs and

headmen of the Seneca nation of Indians, have to two parts of this treaty—one thereof to remain with the United States, and the other thereof with the Seneca nation of Indians—set their hands and affixed their seals the day and year first above mentioned.

AMBROSE SPENCER.		[L. S.]
Tit ho-yah, or William Jones,	his x mark	[L. S.]
Saul Lagure,		[L. S.]
Gau-geh gruh-doh, or George Jamison,	his x mark	[L. S.]
N. T. Strong,		[L. S.]
Hau-neh-hoys-soh, or Blue Eyes,	his x mark	[L. S]
Jabez Stevenson,		[L. S.]
William Krouse.		
Samuel Wilson, or Ni-ge-jos-a,	his x mark	[L. S.]
William Krouse,		[L. S]
John Seneca, or Jo-on-da-goh,	his x mark	[L. S]
Ho-no-yea-os, or Jacob Bennett,	his x mark	[L. S.]
George Turkey,		[L. S]
Daniel Fau Guns,		[L. S.]
Goat-hau-oh, or Billy Shanks	his x mark	[L. S]
Daniel Fau Guns,		[L. S.]
Goat-hau-oh, or Billy Shanks,	his x mark	[L. S.]
James Pierce,	his x mark	[L. S]
Gi-eut-twa geh, or Robert Watt,	his x mark	[L. S.]
Thompson S. Harris		[L. S]
Sah-go-en-toh, or Morris Malftown,	his x mark	[L. S]
Ten-wan-ne-us, or Governor Black Snake,	his x mark	[L. S.]
Doa-ne-pho-gah, or Little Johnson,	his x mark	[L. S.]
Joh-nesh-ha-dih, or James Stevenson,	his x mark	[L. S.]
Ho-wah-tan-eh goh, or John Pierce,	his x mark	[L. S]
Da-gon-on de, or William Patterson,	his x mark	[L. S.]
Samuel Goudon,		[L. S]
Tunis Halftown,		[L. S]
Hau-sa-nea-nes, or White Seneca,	his x mark	[L. S.]
Gah-nang-ga-eot, or Young Chief,	his x mark	[L. S.]
Thomas Jimeson,		[L. S.]
Moses Stevenson,		[L. S.]
Jonah Armstrong,	his x mark	[L. S.]
Joseph Silverheels,		[L. S.]
Da-o-as-sah-au, or Jo. Hunlock,		[L. S.]
George Fox,		[L S]
Yaw-sau-ge, or Peter Johnson,	his x mark	[L. S.]
Noh-sok-dah, or Jim Jonas,	his x mark	[L. S.]
Dih-no-se-du, or Jacob Shongo,	his x mark	[L. S.]
Seneca White,		[L. S]
Gosh-u-aw, or James Shongo,	his x mark	[L. S.]
Jarvis Spraing,		[L. S.]
Ti-at-tah-co, or Adam Doxtader,	his x mark	[L. S.]
Maris B. Pierce,		[L. S.]
So gooh quas, or John Tallchief,	his x mark	[L. S.]
Isaac Halftown,	his x mark	[L. S.]
David Snow,	his x mark	[L. S.]

John Bark,	his x mark	[L. S]
George Killbuck,	his x mark	[L. S.]
George Dennis,	his x mark	[L. S.]
John Kennedy, sr.,	his x mark	[L. S.]
Abram John,	his x mark	[L. S.]
Job Pierce,	his x mark	[L. S]
Saw-da-ne, or George Deer,	his x mark	[L. S.]
Ga na waw, or John Cook,	his x mark	[L. S.]
Jaw-ne-es, or John Dickey,	his x mark	[L. S]
George Big Deer,	his x mark	[L. S.]
Nah joh gau eh, or Tall Peter,	his x mark	[L. S.]
John Kennedy, jr.,	his x mark	[L. S.]

Signed, sealed, and delivered in the presence of—
[the words "and Allegany," in the sixth page, being interlined]—

A. Dixon, *Commissioner on the part of New York.*
Benj. Ferris.
Orlando Allen.
Asher Wright.
O. H. Marshall.
Elam R. Jewett.
Cortlandt B. Stebbins.
Joseph S. Wasson.

Approved, August 25, 1842.

JOHN TYLER.

Now, therefore, be it known that I, JOHN TYLER, President of the United States of America, having seen and considered said treaty, do, in pursuance of the advice and consent of the Senate, as expressed in their resolution of the twenty-fourth of August, one thousand eight hundred and forty-two, accept, ratify, and confirm the same, and every article and clause thereof.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, having signed the same with my hand.

Done at the city of Washington the twenty-sixth day of August, in the year of our Lord one thousand eight hundred and forty-two, and [L S] of the independence of the United States the sixty-seventh.

JOHN TYLER.

By the President:
DANIEL WEBSTER, *Secretary of State.*

G.

TONAWANDA RESERVATION, *March* 30, 1844.

To the Hon. JOHN TYLER, *President of the United States:*

BROTHER: We communicate a few words to your excellency concerning the illegal course pursued by the Ogden Company to obtain possession of our lands. The appraisers of the Indian lands have, without informing us, and obtaining our consent, valued our improvements while they were seat-

ed in Buffalo, and filled out a report to the general government. When the report has been received by the President of the United States, we want and we demand that it be rejected. And when the Ogden Company shall feel disposed to pay money into the hands of the government for our lands, we strictly charge the government and the President not to receive it. The Ogden Company has often, since 1838, deceived both the general government and the Indians, and now we say let no more deception be used. The department have said that the United States had no legal power to enforce the treaty, and have accordingly sent the matter of difficulty to be adjusted in the judicial courts of the State of New York. We are determined never to sell our share of the Seneca lands, which consist of fifty acres to an individual. We believe that the treaty of peace made between the Six Nations of Indians and the United States is yet good. In that treaty peace and friendship are permanently established, and it provides to each of the Indians severally the entire control of their share of the Indian lands, and the free enjoyment of their rights and privileges. We are determined to keep the faith of that treaty. We shall also inform the governor of Massachusetts of the fraudulent course taken by the Ogden Company to secure to themselves the entire possession of our lands.

Brother, we desire that the Great Spirit might shine upon you in your deliberations to do justice to a helpless people. We rely upon the justice of a Supreme God, and upon the integrity and faith of the United States for justice and the proper protection of our people.

We are your obedient servants,

Jemmy Johnson,	his x mark.
John Blacksmith,	his x mark.
Blue Sky,	his x mark.
John Sky,	his x mark.
Win Washington,	his x mark.
Samuel Parker,	his x mark.
Jessy Tiflany,	his x mark.
Lewis Poodry,	his x mark.
Jesse Spring,	his x mark.
Daniel Spring,	his x mark.
John Bigfire,	his x mark.
Isaac Shanks,	his x mark.
Lewis Kennedy,	his x mark.

Attest: ELY S. PARKER.

H.

TONAWANDA, *April* 21, 1814.

We, the undersigned, Seneca chiefs residing on the Tonawanda reservation, under a sense of duty to ourselves and nation, do once more communicate *our feelings and determination* to our great father, the President, relative to our difficulty with the Ogden Company, as it regards *our land*, and the course still persisted in by them to unjustly and unlawfully wrest them from us. We are informed that they have or are about to pay the government the money for our improvements, which have never been surveyed or valued, although the appraisers came to Tonawanda for that purpose, but were forbid to prosecute their design by the unanimous voice of the chiefs

of said reservation, and immediately left without surveying or appraising any of our lands.

We would request the government not to receive any money from the Ogden Company for our improvements or land, in any way, as we are still determined to remain on the small reservation left us; and shall *not receive the money from the general government*, if paid them by said company.

We feel very thankful to the Great Spirit for the preservation of our lives, and the numerous blessings he is bestowing on us; and also to our father, the President, for his kindness in listening to our cries in this time of trouble; and we trust he is willing to do all in his power to relieve us.

We are about to send a delegation to Washington very soon, and request that nothing further be done relative to our affairs till they arrive.

John Blacksmith, *head chief*,	his x mark.
Jimmy Johnson,	his x mark.
Blue Sky,	his x mark.
John Sky,	his x mark.
William Bigfire,	his x mark.
Jesse Spring,	his x mark.
Daniel Spring,	his x mark.
Samuel Parker,	his x mark.
Lewis Poudry,	his x mark.
Lewis Kennedy,	his x mark.
Wing Washington,	his x mark.
Jesse Tiffany.	his x mark.

J. A. SANDFORD, *Interpreter.*

His Excellency JOHN TYLER,
President of the United States.

I.

BATAVIA, *August* 20, 1844.

BROTHER: You are well aware of the troubles, difficulties, and perplexities with which we have been beset by the Ogden Company, who have long been endeavoring to get possession of the few acres of land that have been guarantied to us by our great father, the President of the United States, and his council.

You know that against these encroachments we *have steadily and perseveringly entered our solemn protest*, but it has been the protest of the weak against the strong; and this company have at last (under the *color* of a treaty, to whose provisions we never have assented) sought to take actual possession of our lands.

On the 19th and 20th instant, they have offered our lands for sale in the village of Batavia. We attended on both of those days, *and publicly protested against the right of the company to our lands, and warned the people present against purchasing them.* But notwithstanding all this, they still persevere in their attempt, and some of the lands have been sold.

For fear that we should be *misrepresented* to you, and that you should be told that we had acquiesced in the sale, we inform you that this is not the fact. We have been deputed by the men and chiefs of our nation to take the course

we have; and we are desirous of informing you of the fact: hope you will stand by us in these our difficulties.

Your brothers,

JOHN BLACKSMITH, his x mark.
JAMES JOHNSON, his x mark.

J. A. SANFORD, (a Seneca Indian,) *Interpreter.*

Hon. WILLIAM WILKINS,
Secretary of War.

J.

An estimate of the number of acres of improved land to be owned, occupied, and cultivated by the Senecas of the Cattaraugus, Tonawanda, and Buffalo bands, if condensed on the Cattaraugus reservation, showing it to be entirely inadequate for their support.

Total population of the three bands, 1,980 souls;
Number of acres of wild land, 21,767;
Giving to each soul eleven acres, or thereabouts—entirely inadequate for their support.

The number of acres of cleared land is 2,123, which would be but a little over an *acre and a half* to each; an allotment that would not be sufficient to support *comfortably* more than *a tenth* of the population that will be crowded on that reservation, upon a fair estimate.

Present allotment is 50 acres to each, on their own reservation.

L.

MEMORIAL OF TONAWANDAS.

To his Excellency the President and to the honorable the Senate of the United States:

The petition of the Seneca Indians, residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, respectfully represents:

That we did unanimously oppose the treaty of January 15, 1838, and prevented its adoption in open council. That we did, also, unanimously oppose the treaty of May 20, 1842, and to the last. From the beginning to the end of these movements to take away our lands, we have unitedly and unanimously resisted.

We therefore believe that these treaties should not be executed upon us, if the principles of justice are to be followed. We believe there is no moral obligation upon us to adhere to them; and for denying their force, and resisting their execution, we set forth the following reasons:

1st. The Senate and President of the United States assumed to treat with the Seneca nation as an independent people, having power to form a treaty, and bind themselves thereby; and then, by the resolution of June

11, 1838, took away our *independence* by prescribing the manner in which our assent should be given—namely, by the signatures of a majority of our chiefs in open council; when, in fact, by our national laws it was, and still is, necessary that *all* of the chiefs should be of one mind; that they must *unanimously* agree to make a treaty—otherwise it cannot be made. In this fundamental law of the Iroquois, and of our nation, we at Tonawanda would have found protection. If the United States treat with us according to the laws recognised among nations, and upon the principles of justice, here is a valid objection to the execution of these treaties, and a sufficient reason why they should be unmade. We never before were required, in our treaties with the United States, to depart from our national forms of assenting to treaties which were to bind us.

2d. If it is insisted by the United States government (which has all the power to carry them into execution) that these treaties are valid notwithstanding this objection, we present, as another reason why these treaties should be broken up, that no equivalent is to be given to us for our lands. The peaceful possession of these lands has been guarantied to us by the United States government. The *ownership and the title* were in us. The Ogden Company, to whom the government right to purchase has been transferred, has a mere naked right to purchase when we are ready to sell, and nothing more. They cannot compel us to sell. Now, we believe that, by the principles of justice and equity recognised among white people, we are entitled to the full value of our lands. We believe, further, that this reservation, if put in market, would bring $14 per acre on an average, including improvements, while these treaties pay us for the land and improvements about $2 50 per acre on an average. By these treaties, then, we are about to be despoiled of property which was undeniably ours, at the rate of $11 50 per acre, even if we had been willing to sell it at its market value. In a word, over eleven-fourteenths of all we possess has been taken from us by these treaties, and given to the Ogden Company. The same estimate will hold with reference to the Buffalo reservation. How unholy this speculation! These facts alone must show that treaties so obviously unjust were never made by our nation willingly and fairly; and lead to the inference that our lands have been wrested from us so pointedly as to demand of the government of the United States, from a sense of justice to itself, that the circumstances under which these treaties were obtained should be re examined, and, if found as represented in this petition, that the treaties themselves should be unmade by the parties thereto.

3d. In the third place, as further reasons why the United States should break up these treaties, at least so far as we at Tonawanda are concerned, we urge the following: If we leave Tonawanda we have no homes to go to. The Cattaraugus reservation is now full to overflowing, by the addition of 450 Senecas from the Buffalo reserve; so much so, that 250 still remain at Buffalo from necessity. The Cattaraugus reservation is small, and much of the land is hilly, and not capable of sustaining any families; and we believe that those already there can scarcely live. The Allegany reserve has also about as many as it can contain and support, and has more poor and hilly land in proportion than the Cattaraugus. It is absolutely impossible that we on this reservation, 500 in number, could live upon the Allegany with those already there. Starvation and misery would be the inevitable result. We cannot go there, and do not intend to, at all hazards. The truth and force of these facts will be realized when it is remembered

that our two best reserves, the Tonawanda and Buffalo, are to be taken from us; and if we are all collected upon the remaining two, the number of people will thus be more than doubled at once. It is horrible to believe that the United States government will bring famine and death upon us by executing these treaties. We cannot believe it. It may be said we ought to emigrate to the western wilderness. We answer, that there are less than one hundred at this time, and never have been more than 150, out of 2,500 Senecas, willing to emigrate. We cling to the land of our birth. We are linked together by the ties of brotherhood and consanguinity; and we must share a common destiny. We prefer to progress, as we do now, towards the customs of the whites, rather than to go into the wilderness again, and fall back to our natural or the hunter state.

4th. It is not necessary for us to detail the circumstances by which the treaty of 1838 was carried through. The fact that a majority of the chiefs of our nation did not sign the treaty in "open council," as the resolution of the Senate of June 11, 1838, directed; that some of those who did sign were bribed by money and promises of land; that others were made drunk; that others were made chiefs illegally, for the express purpose of signing, are well known and now admitted. And further, as to the treaty of 1842, although a majority was then obtained, (without the votes of any of the chiefs on this reservation, who all refused either to vote or to sign,) yet the compromise was made by the Senecas under a mistaken knowledge of their rights. The only question settled by that treaty was, whether they would unconditionally [sign, or] whether they would lose all their reservations, or save two of them. It was a mere *sacrifice* of two, to *save* two, believing that the *four* were otherwise lost. The fact that a majority signed under such circumstances, gives no *moral* force to the treaty.

5th. It may be said that under these treaties the rights of the Ogden Land Company have attached; and, if the United States and the Senecas should abrogate these treaties by a new council, the company could recover damages of the government. We answer, that we are not to blame. We did not ask the United States to make a treaty with us. We did not ask the Ogden Company to buy our lands. The first treaty was absolutely thrust upon us, and the last extorted from us, when it was well known that *twenty-three hundred and fifty* out of *twenty-five hundred* Senecas were decidedly and unequivocally unwilling to sell any lands.

6th. We may be told that we must look for redress to the courts of New York, or the courts of the United States, and that they will do us justice if we are entitled to any. We answer, that we are also informed that the legal tribunals cannot look behind or below the outward face of treaties which have been ratified, and inquire into the *manner or means* whereby they were obtained. The courts of law, therefore, cannot reach the evil or do us justice. If we look away from the President and Senate, our rights, our lands, and our hopes are gone. The United States government, which authorized a commissioner to make these treaties, can authorize another commissioner to unmake them, and we on our part, as a nation, will most gladly assent.

Your petitioners, in view of all the circumstances, most humbly and earnestly pray that before April, 1846, the Senate of the United States will pass a resolution recommending to the President that the case of the Seneca Indians demands a new and full investigation; and if the facts are found to be as represented in relation to these treaties, that the commissioner who

investigates the facts shall then be authorized to make a new treaty, which shall abregate all past treaties, and restore the Seneca nation once more to its rights, place each reservation for the future under the control of its separate chiefs, and thus give, in effect, to the Seneca nation that redress which justice, equity, and humanity demand.

And your petitioners, as in duty bound, will ever pray, &c.

Chiefs.

		Number in family.
John Blacksmith,	his x mark	6
James Johnson,	his x mark	2
Blue Sky,	his x mark	19
Jesse Tiffany,	his x mark	3
Lewis Poodry,	his x mark	9
Samuel Parker,	his x mark	
Win Washington,	his x mark	2
John Shry,	his x mark	7
George Babcock,	his x mark	
Richard Cooper,	his x mark	
Benjamin Jones,		
Tall Peter,	his x mark	
Isaac Shank,	his x mark	7
John Bigfire,	his x mark	3
Daniel Spring,	his x mark	5

Warriors.

John Possum,	his x mark	12
Hau-nase-haà,	his x mark	6
Daniel Shry,	his x mark	7
John Moses,	his x mark	4
Samuel Parker,	his x mark	4
Jackson Ground,	his x mark	
John Brann,	his x mark	14
John Shanks,	his x mark	8
Daniel Bigfire,	his x mark	4
William Taylor,	his x mark	6
William Snyder, sr.,	his x mark	12
Squire Brooks	his x mark	5
W. Snyder, jr.	his x mark	6
John Cooper,	his x mark	4
John Jack,	his x mark	4
Joseph Taylor,	his x mark	5
Gar-go-oh,	his x mark	6
John Infant,	his x mark	5
William Clute,	his x mark	5
Isaac Doctor,	his x mark	9
James Shongo,	his x mark	6
Hiram Clute,	his x mark	7
John Blackchief,	his x mark	6
Monroe Jonas,	his x mark	7
Johnny John,	his x mark	10

		Number in family.
Billy Stewart,	his x mark	7
David Printup,	his x mark	7
John Lone,	his x mark	7
David Roodey,	his x mark	
Daniel Peter,	his x mark	14
George Cooper,	his x mark	6
John Hill,	his x mark	6
George Elkintor,	his x mark	15
John Peterson,	his x mark	
John Jones,	his x mark	5
Oak-ta-go,	his x mark	6
Har-ar-sars,	his x mark	7
John Miller,	his x mark	9
William Parker,	his x mark	12
Ja-ga-sa-gass-ta,	his x mark	10
John Bigbay,	his x mark	9
Henry Moses,	his x mark	10
James Gar-nos-crog,	his x mark	7
James Joshua,	his x mark	3
William Hatch,	his x mark	6
Isaac Doxtater,	his x mark	7
William Bigfire,	his x mark	5
Isaac Johnson,	his x mark	7
John Brookes,		2
John Shepard,	his x mark	5
James Tommy,	his x mark	
Ephraim Thomas,	his x mark	4
Levi Parker, esq.,		
John P. Poodry,		2
Henry Parker,		
George Moses,	his x mark	6
William Jimmy,		5

I hereby certify that all persons who signed this paper are men of the Seneca nation, and they did severally and personally sign and make their marks in my presence.

ELY S. PARKER, *Interpreter.*

M.

Mass meeting for the Indians.

A large convention of the citizens of Genesee county assembled at the court-house in Batavia on the 21st day of March, 1846, at 11 o'clock, a. m., to take into consideration the situation of the Tonawanda Indians residing in said county.

Mr. Samuel Richmond called the convention to order, and read the rec-

ommendation of the grand jury of said county, and other citizens, for such convention, which was as follows:

At a court of oyer and terminer and general jail delivery, held in and for the county of Genesee, at the court house in Batavia, on the fourth Tuesday of February, A. D. 1846, the attention of the undersigned members of the grand jury, organized at said court, has been called to the condition of the Tonawanda Indians, a clan of the Seneca nation of Indians, occupying and residing on the Tonawanda reserve, in the county of Genesee.

Their inquiries have led them to the knowledge of facts showing that these Indians are continually molested by the intrusion of whites upon their lands, who claim them by purchase from, and contracts with, the Ogden Company. The undersigned deeply sympathise with these descendants of a once powerful race in the misfortunes to which they are subjected by the terms of the treaty under which the Ogden Company claim title to these Indian lands.

The grand jury, as such, can take no immediate action to redress and repair these misfortunes, but they unanimously recommend to the people of the county of Genesee a general convention, at some early day, to take into consideration the unhappy condition of the Tonawanda Indians, and to devise, if practicable, some effectual means for their relief.

J. E. TOMPKINS,
JAMES LATHROP,
NELSON PARKER,
A. H. GREEN,
JAMES B. TODD,
L. MIX,
SHERROD PARKER,
JEFFRY ROBE,
HIRAM TUTTLE,
SAMUEL HUNN,
JAMES G. TIFFANY,
R. S. KINNE,
R. N. CLEMENT,
LUTHER CROSBY,
IRA E. PHILIPS,
GEORGE MARCH,
E. S. HUDSON,
E. PRINGLE,
JOHN TONE,
GUY B. SHEPARD.

In accordance with the foregoing recommendation, the undersigned, citizens of the county of Genesee, have called a mass meeting of their fellow-citizens, to be held at the court-house in Batavia on the 21st day of March, A. D. 1846, at 10 o'clock in the forenoon of that day.

A great public wrong is about to be consummated before our eyes, by the removal of the Tonawanda Indians from their lands. Men, women, and children, who have done us no injury—who are guilty of no violation of law—no disturbance of the public peace—who have conducted themselves in a manner at once orderly and unobtrusive—are to be torn from their homes, without the consent of a single individual among them, and to be driven away from an inheritance which has been guarantied to them by

treaties, and to which they are attached by every consideration which can endear to men the place where they were born and have lived.

We know that the public feeling of the people of this county is greatly shocked at the threatened perpetration of this wrong, and we invite you to assemble *en masse*, that this feeling may obtain concentrated expression and force. There are means by which this public calamity may be averted, consistently with the interests of all who claim these lands, and we propose that those means shall be submitted to you for your consideration at the convention to assemble on the 21st of March.

SAMUEL WILLETT,
ANDREW H. GREEN,
FREDER'K FOLLETT,
E. J. PETTIBONE,
J. R. JACKMAN,
SAMUEL RICHMOND,
AMOS TYRELL, JR.,
TRUMBULL CARY,
JOHN SPRAGUE,
BENJAMIN THROOP.

On motion of Mr. Richmond, Samuel Willett, esq., was chosen president of the convention, and Isaac T. Gifford, James R. Jackman, and Trumbull Cary were chosen vice presidents.

On motion of M. Taggart, esq., Benajah Benedict, and, on subsequent motion, Samuel J. Todd, were chosen secretaries of the convention.

The convention being thus organized, Frederick Follett, esq., moved the appointment of a committee of five, to prepare and report to the convention resolutions for their adoption. The motion was carried, and the president appointed as such committee Frederick Follett, Isaac A. Verplanck, Samuel Richmond, Leverett Seward, and Seth Wakeman.

J. H. Martindale, esq, then moved the appointment of a committee of three to prepare and report to the convention a memorial for their consideration.

The motion was carried, and the president appointed as such committee John H. Martindale, Daniel H. Chandler, and Levi E. Rugg.

And thereupon the convention adjourned, to meet again at 1 o'clock, p. m.

At 1 o'clock the convention assembled, pursuant to adjournment; and having been called to order, Mr. Martindale, from the committee to prepare a memorial, made the following report:

A convention of a large number of the people of the county of Genesee, in the State of New York, assembled, on the recommendation of the grand jury recently organized in said county, to consider the condition of the Tonawanda Indians in said county, and to devise, if practicable, some effectual measures for their relief, respectfully represent to the Senate of the United States and to the legislature of the State of New York—

That the Tonawanda Indians are a clan of the Seneca nation of Indians, residing on a reserve of twelve thousand and eight hundred acres, situated in the counties of Genesee and Erie, but mainly in the county of Genesee. There are three other reservations in the State of New York, occupied by clans of the Seneca nation: one of about fifty-three thousand acres, called the Buffalo reservation, lying on the Buffalo creek, near the city of Buffalo;

another containing about twenty-two thousand acres, called the Cattaraugus reservation, lying in the counties of Erie, Chautauque, and Cattaraugus, on Cattaraugus creek, near the eastern extremity of lake Erie; and the third, containing about thirty one thousand acres, called the Allegany reservation, and lying on the Allegany river, in the counties of Allegany and Cattaraugus.

All these reservations form a part of an extensive territory, which, previous to the year 1787, was claimed by the State of Massachusetts. In that year a treaty ensued between that State and the State of New York, by which the sovereignty of the disputed territory was conceded to New York, and the pre-emptive right to the soil occupied by the Indians was conceded to Massachusetts and her grantees.

By this pre emptive right is meant the exclusive right to purchase the lands of the Indians.

In 1837 the Ogden Company (so called) were the grantees of this pre-emptive right to the four reservations occupied, as already stated, by clans of the Seneca nation of Indians.

In that year a commissioner was appointed by the government of the United States, ostensibly to treat with these Indians for the reconveyance by them of five hundred thousand acres of land in the Territory of Wisconsin to the United States, and which land, although not claimed by these Indians, nor in fact ever possessed or acquired by them, had nevertheless been offered to them by the government in the year 1832, on condition that they would remove there and occupy it. This they had not done, and refused to do. The ostensible object of this commission was to acquire these Wisconsin lands. The real purpose of the Ogden Land Company, through whose agency and solicitation the treaty had been projected, was to secure the removal of the New York Indians at the expense of the United States, and thus to obtain for themselves a clear title to the reservations which, on the consummation of this project, would be left vacant.

In 1838, in furtherance of the design just stated, the United States commissioner and the agents of the Ogden Land Company proceeded to the accomplishment of their purpose; and they procured, first, a conveyance to the Ogden Company of the four reservations already described, for the consideration of two hundred and two thousand dollars, which purports to have been signed by forty-two of the chiefs of the Seneca nation; and, second, a treaty by which the Indians ceded to the United States the five hundred thousand acres of land in Wisconsin; and the United States agreed to secure to the New York Indians one million eight hundred thousand acres of land immediately west of Missouri, and to pay to them the sum of four hundred thousand dollars—on the condition, however, that the Indians should remove to and settle on such lands within five years thereafter, or within such other time as the President might from time to time appoint.

By the customs and usages of the Seneca nation of Indians, their lands can only be alienated by the consent of *a majority of their chiefs in council;* the chiefs having first received authority from the nation to treat on the subject of alienation at all. By treaty with the United States, made in 1794, as well as by the most obvious dictates of justice and propriety, they can only be deprived of their lands with their own *voluntary consent.*

Neither the deed to the Ogden Company nor the treaty with the commis-

sioner of the United States received the sanction of a majority of the chiefs in council. On the contrary, only sixteen out of eighty-one chiefs ever gave such assent.

The assent and signatures of the remaining chiefs were procured by large bribes to many of them individually, secured in eight known instances with instruments signed by the authorized agents of the Ogden Land Company, and in which the agents contracted, besides other valuable considerations, to pay to eight chiefs alone, for their assent to the treaty and the promise of their influence and efforts to induce other chiefs to assent in like manner, the sum of *twenty-one thousand six hundred dollars* in cash.

These promises and agreements were made, and a portion of the bribe-money paid, and the signatures obtained, after urgent solicitations, by the hired agents of the company, in rooms in the city of Buffalo, where the chiefs had been separately inveigled, remote from the tribes, out of council, and for such reasons, when they had no authority to do any act having official sanction, or in the slightest degree obligatory upon the tribes.

And when these means failed of gaining for the company the requisite majority, new chiefs were elected by a small fraction of the tribe, contrary to their customs and usages, for the very purpose of securing the required number.

The Indians allege that, in addition to such means, chiefs were made drunk with spirituous liquors, and while they were utterly unconscious of what they were doing, were permitted to sign, and did sign, their assent to the treaty.

These facts, and many others equally revolting, reprehensible, and barbarous, into the details of which we cannot now go, are susceptible of the plainest proof. Indeed, such proof has already been furnished to and now remains in the custody of the Senate of the United States.

To the treaty thus made, after some immaterial amendments, the Senate gave its assent by the casting vote of the presiding officer of that body. In view of these facts, we respectfully submit and insist on the following points:

First. The Indians in the State of New York can only be deprived of their lands with their own *free and voluntary consent;* which consent can only be expressed in the mode sanctioned by the customs and usages which form the common law of their respective tribes.

Second. The Senate of the United States has no power or authority to change the customs or laws of the Indians, nor to prescribe the mode in which their assent to treaties shall be expressed. If the contrary were true, then would it be out of the power of the Indians, as it was put beyond their power in 1838, to express their free and voluntary assent or dissent to any treaty or project which the Senate might propose for their adoption.

Third. In the treaties of 1838, by which the Ogden Company acquired their title to the four Indian reservations, the Senate only acted as the guardians of the rights of the Indians, and simply to ratify the *free and voluntary* alienation of their lands, executed according to their customs and usages. Such *free and voluntary alienation* was a condition precedent, without which the Senate could not act at all, except to declare that the terms of the proposed treaty were such as they would approve; but such approval could not and did not bind the Indians any farther than they had *freely and voluntarily* consented to be bound.

If these positions are true, then we believe it follows that the treaties in

question, procured by bribery, and in a manner clandestine, and contrary to the laws of the Indians, are utterly without force or validity.

In 1842, the pressure of public opinion induced the Ogden Company to consent, or at least to interpose no objection, that the government should treat anew on the subject of their title; and another commissioner on the part of the United States attended at Buffalo to watch over the proceedings in a council of the Indians which immediately assembled. The proceedings of this council were conducted on the basis that the conveyance made in 1838 had fully and legally divested the Indians of their title to all of their four reservations. The Ogden Company did not agree that the Indians had any power to act freely and voluntarily on the question of retaining or surrendering their lands. The commissioner of the United States did not submit to them any such choice. They were called to decide simply whether they would be content with such favor as the Ogden Company might think it advisable, out of deference to public opinion, to concede to them; and the commissioner did submit a treaty, providing, as the best terms which that company would offer, that the Indians might retain two of their reservations, the Cattaraugus and Allegany, in consideration of their surrender of and removal from the Tonawanda and Buffalo reservations, and the release of a proportionate share of the purchase money of $202,000. It is worthy of remark that the Ogden Company claim title to the four reservations by the deed of conveyance executed to them by name in 1838. The treaty of 1842 is between the Indians and the United States, and does not purport in any manner to have received the sanction of or to be obligatory upon the Ogden Company. The Indians, with great reluctance and hesitation, but without the concurrence of a single individual of the Tonawanda clan, accepted this proposition of the commissioner. Had these Indians been permitted to decide, or even to deliberate on the question, whether they would surrender or retain all their lands, there would have been no doubt, no hesitation, no reluctance, in the prompt and decisive rejection of the terms which were proposed to them.

It is the height of folly and dishonesty to pretend that the treaty of 1842 was the free and voluntary assent of the Indians to the surrender of the Tonawanda and Buffalo reservations. Without power to choose, denied even the right to deliberate, assured that the rejection of the terms proposed would only compel their removal from all of their reservations instead of two, it is in vain to say that the Indians executed that treaty freely and voluntarily.

We believe, and we have the conviction of our consciences to confirm us in our belief, that a contrary conclusion conflicts with every just, moral, or Christian principle. It would substitute brute force for right. It has all of its validity in our power and in the weakness and ignorance of the poor remnant of that race on whom wrongs have been perpetrated as often and as long as they have held possessions to tempt the insatiate avarice of their oppressors.

By the terms of the treaty of 1842 the Indians are required to abandon the Tonawanda and Buffalo reservations on the 1st day of April, 1846. Already are they subjected to continual molestation by the whites, who have purchased some portion of their lands of the Ogden Company, in anticipation of their speedy removal. We are informed that many of the Indians who reside on the Buffalo reservation have gone to Cattaraugus and Allegany, where they are suffering for the want of necessary food, and con-

tinual quarrels among themselves embitter their lives, already made painfully burdensome by their struggle for a scanty subsistence.

The Tonawanda Indians have uniformly and unanimously opposed the treaty in every form in which it has been presented to them, and have at all times refused to receive any portion of the consideration money to be paid by the Ogden Company for their lands. They are firmly attached to the place where they live. Far enough removed from the populous villages and cities to be protected from the contagion of the vices which there prevail, they are not placed beyond the manifold advantages and comforts which the proximity of a civilized and enterprising community extends to them. Between them and us the kindest feelings and intercourse prevail. We do not perceive in their case any necessity for their removal growing out of considerations of policy and expediency. Could they be left to feel and profit by the happy influences which surround them, unmolested by the intrigues and avarice of a band of speculators, who are anxious to tear them from their homes, and seize upon and appropriate their inheritance, we believe that they would soon furnish us with an example of the beneficent results which education can accomplish in the elevation of their social, moral, and intellectual condition.

We respectfully ask the Senate of the United States to review the evidence which has been furnished to them, or, if expedient, to examine the additional testimony which can be procured of the frauds practised on the Indians; and if agreeable to the laws of the land, to revoke the assent which they have given to the sale of the Tonawanda reservation to the Ogden Company.

We submit that such action will be legal as well as just, because it never could have been the design of the United States Senate to give their sanction to a contract procured from the Indians by gross and palpable fraud. Clearly such a contract is void, so far as it imposes by its terms any obligation on the Indians; and if void, we cannot see how its ratification by the Senate can restore validity to it unless that body shall assume the power to alienate the lands of the New York Indians, not only without their consent, but even in spite of their protest and supplications, and in plain violation of the faith and honor of the United States government, pledged to them by treaties, the protection of which they have continually invoked.

And we further respectfully submit that if the faith of the government is indeed pledged to this Ogden Company, so that the revocation of the assent given by the Senate to the treaties in question cannot be made without remuneration to that company, then it is unbecoming a great, and powerful, and just nation, to withhold such remuneration. If the action of the government has been productive of wrong to the poor and defenceless tribes of red men which that government has promised to protect, then the plainest dictates of equity and honor require us to repair that wrong, and to purchase and restore the lands of which we have been made the unintentional instruments to defraud them. If there be no other remedy, we ask the government to purchase the 12,800 acres of land constituting the Tonawanda reservation, and to reconvey it to the clan of Indians who now hold it in possession.

And, inasmuch as doubts have arisen as to the effect of the ratification by the Senate of the treaty of 1842, and claims have been put forth by the Ogden Company that such assent debars the Indians of their right to plead or prove the frauds practised upon them, whenever that treaty may be called

in question by the legal tribunals of the country, we ask that the Senate, by resolution or otherwise, may avow the extent and effect of their assent, and deny their purpose or power to legalize and sanction any fraud, which may be susceptible of proof, to impair and invalidate that treaty.

And inasmuch as threats have been made by the agents of the Ogden Company, that, should the Indians refuse or neglect to remove from the Tonawanda reservation, agreeably to the provisions of the treaty of 1842, the government of the United States would employ the military force of the country to compel such removal, we respectfully but most earnestly ask that Congress shall interpose, by resolution of that body, to prevent such proceeding, as subversive of all the legal rights yet remaining to these Indians, and revolting to the feelings of the citizens of this county.

And we respectfully ask the consideration of the legislature of the State of New York to the condition of these Indians, and the legal difficulties which they must encounter, under the present statutes and laws of this State, in contesting the right of the Ogden Company, derived from the treaties of 1838 and 1842, to the Tonawanda reservation. In one instance a judge of the courts of this county has deemed it his duty to refuse an application for a warrant for the removal of intruders from that reservation, under the statute passed March 31, 1821, upon the sole and only grounds that by the treaty it has lost its character of Indian lands, and therefore he would be a trespasser in allowing and issuing such warrant.

We ask for such an amendment or addition to that statute, or other adequate legislation, as will enable the Indians to contest the validity of the treaty, and the rights which the intruders upon their lands have acquired under it. And we trust that speedy action may be taken in relation to this subject, so that these Indians may find in the laws of our State certain protection against the frauds and avarice of which they have too long been the unhappy victims.

The memorial having been read, Mr. Follett, from the committee on resolutions, reported the following:

Resolved, That we deeply sympathise with the remnant of the once powerful tribes of Indians who now inhabit the western part of our State, and that we have witnessed with feelings of mortified pride the attempts that have been made, and are now making, to deprive them of their scanty possessions; that we feel ourselves called upon by every principle of justice, and by all the dictates of philanthropy, to do all we can to arrest the great wrong that is about to be committed upon them.

Resolved, That while we cheerfully bear our united testimony to the morality, good order, industry, and agricultural progress of our neighbors at Tonawanda, we deeply sympathise with them in the difficulties into which they have been brought by the arts of the Ogden Company. We know they have never consented to sell a foot of land, nor have been a party to any treaty for that purpose. We can never approbate the oppressive treaties by which, if not annulled, they are to be forced from the land of their birth. We believe they are unjust: we believe, with them, that they should be abrogated, and we will aid them in their call for justice.

Resolved, That as the people of New York have never demanded the removal of these Indians, and would not, if called upon to express their opinion, wish their removal against their free consent, we would regard it as much more worthy the dignity and enlightened justice of our State to

elevate and educate the remnant of our Indians, than to suffer them to be uprooted as a nation, and be made the victims of a mere private speculation.

Resolved, That we view the government of this country as standing in the light of *guardians* to the Indians within its territory; and that as the treaty of 1838, and the so-called compromise of 1842, was never asked for or demanded by the Indians, but was brought about by the unwearied efforts and at the solicitation of the Ogden Land Company, we are therefore led to question its justice, and to doubt its binding force upon those who have all the time protested against its consummation.

Resolved, That the Congress of the United States, if the same shall be deemed practicable, be requested to arrest the final consummation of this treaty, that time may be afforded for a full, fair, and unprejudiced examination of the means and appliances used to bring about the same; and that the Senate be requested to review the treaties, and the means by which they were consummated; and that if it shall be satisfied that fraud and corruption were the basis upon which they were reared, that it then be called upon, as the *guardians* of the Indians, to abrogate and annul the same.

Resolved, That copies of these resolutions, signed by the president, vice presidents, and secretaries, be sent to the President and Senate of the United States, to the legislature of the State of New York, and to the chiefs upon the Tonawanda, Buffalo, Allegany, and Cattaraugus reservations; be published in the papers of western New York, and also that they be published in the Washington Union and the New York Tribune.

The memorial and resolutions were then, on motion of M. Wells Hewitt, esq., received for the consideration of the convention.

They were then discussed at length by Messrs. L. H. Morgan, Samuel Richmond, M. Wells Hewitt, Leverett Seward, Isaac A. Verplanck, D. H. Chandler, J. H. Martindale, and Harry Wilber.

Explanations relative to the treaty of 1842 were made by Mr. Aldrich, and another member of the Society of Friends, who were in attendance.

Jimmy Johnson, head chief of the Six Nations, then addressed the convention, through an interpreter.

The discussion of the memorial and resolutions exhibited in full the circumstances under which the treaties of 1838 and 1842 had been effected, and the difficulties in the way of relieving the Indians from their operation. And, although some of the speakers stated their fears of the impracticability of restoring the title to the Tonawanda reservation to its present occupants, all concurred in expressing their warm sympathies for the heavy misfortunes of the Indians.

The memorial and resolutions were then adopted, by acclamation.

L. H. Morgan, esq., was then appointed a special messenger to bear the proceedings of the convention to the President and Senate at Washington.

And thereupon the convention adjourned.

SAMUEL WILLETT, *President.*

ISAAC T. GIFFORD,
JAMES R. JACKMAN, } *Vice Presidents.*
T. CARY,
BENAJAH BENEDICT, } *Secretaries.*
S. J. TODD,

N.

Petition of the Tonawanda delegates, accompanying the President's message.

To the SENATE OF THE UNITED STATES:

The petition of the undersigned, a delegation of the Tonawanda band of Senecas residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, respectfully represents:

That, in addition to the facts set forth in a petition presented to the President of the United States, our Great Father, the guardian of his wards the petitioners, and to your most honorable body, and sent to your honorable body, accompanied by a message relating thereto from our Great Father the President, are the following:

That the Tonawandas hold their reserved lands separately and in severalty as a distinct band of the Senecas; that as such they have unanimously protested against the sale of their reservation to the Ogden Land Company, or other persons; and more particularly did they protest, solemnly protest, against the treaties of January 15, 1838, and of May 20, 1842, in which the United States, other portions of the Senecas, and the Ogden Land Company, were parties.

That said treaties were made without any participation of the Tonawandas whatever, they being their constant and strenuous opposers; and that no single chief or individual of said band ever approved of them, or executed them, or entered into contract, or agreement, or sale, under them.

That no chief, warrior, or individual of the Tonawanda band of Senecas ever, at any time or place, or under any circumstances, sold to the Ogden Land Company, or their agents, an acre of their land, or ever received a cent for the same from them, or ever made an agreement or treaty of any kind with them.

That the said treaties were made in pursuance of a resolution of your honorable body of June 11 1838, in which the Tonawandas, as a distinct band, were to be assenting parties to make them valid; which provision has not been complied with, they having never assented to or acquiesced in them.

That at the time the said treaties were before your honorable body for confirmation, the Tonawandas protested against their confirmation; but which protest of your petitioners was not presented before you or your committee; which if done, it is firmly believed would never have been confirmed; and, in fact, were never confirmed by a constitutional majority of two-thirds of the Senate, as the Journal will show.

Notwithstanding all these facts, the said treaties purport to sell and convey to the said Ogden Land Company the reserved lands of the Tonawandas, without adequate consideration: cruelly unjust; compelling their removal from their lands, from their farms, homes, and from the graves of their fathers.

Therefore, your petitioners most earnestly and humbly pray that your honorable body, taking into full and solemn consideration the facts herein set forth, will exercise your power of revision and construction to the above treaties, being as you are a part of the treaty-making power of the United States—the guardian of the sacred rights of the Indians, and protectors of their interests; and so revise and act upon those treaties as you may think

fit, and as the immutable principles of justice and equity require, relieving your petitioners from their most unjust and ruinous operation.

And your petitioners will ever pray.

[Original signed by the delegation, and on file in the Senate.]

IN SENATE OF THE UNITED STATES.

February 19, 1847.

Submitted, and ordered to be printed.

Mr. Bagby made the following

REPORT:

The Committee on Indian Affairs, to whom were referred sundry petitions and memorials from citizens of New York, and others, praying that the Tonawanda band of the Seneca tribe of Indians may be exempted from the operation of the treaty of the 20th May, 1842, report:

That the object of the petitioners is to permit the Tonawanda band of Indians to remain on the lands on which they now reside, notwithstanding the provisions and stipulations of the treaty of the 20th of May, 1842.

The pre-emption right to the land referred to in the various petitions and memorials referred to the committee was in the State of Massachusetts, and Massachusetts assigned her interest to Thomas L. Ogden and Joseph Fellows. To this treaty of the 20th May, 1842, there appear, from the face of the treaty, to have been four parties: the United States, acting through her commissioner; the Seneca nation or tribe, acting through their chiefs and headmen; the State of Massachusetts, acting through her commissioner; and Ogden and Fellows, assignees under the State of Massachusetts. The object of this treaty seems to have been to settle finally all the questions of difficulty among the several parties to it, and to carry out and consummate the various contracts and treaty stipulations in regard to the lands in question, and from which the memorialists pray that the Tonawandas may not be removed. The treaty has been ratified and published; and the main question submitted to the committee, and now to the Senate, is, whether it is competent for the government of the United States to annul the provisions of a treaty upon the application of one of the parties to it, or without the concurrence and approbation of all the parties. The committee are clearly of opinion that it is not, and that the treaty can only be dissolved by and with consent of all the parties to it. It is said that no one of the chiefs of the Tonawanda band ever signed the treaty, and that it was a fraud upon them; and that fraud vitiates the treaty, and renders it void *ab initio*.

The committee have no means of knowing to what extent, or whether at all, the Tonawandas were represented in the treaty of 1842. But, in substance, the same evidence was before the Senate when the treaty was ratified, that is now offered and relied upon to exempt the Tonawanda band from its operation. With the substance of this evidence before them,

Ritchie & Heiss, print.

the Senate ratified the treaty; and the committee are of opinion that upon the allegation of fraud or of misrepresentation, or of non-representation, to annul or set aside an Indian treaty would not only tend strongly to unsettle the whole of our Indian policy, but would open a field of interminable difficulty, embarrassment, and expense. They therefore recommend the adoption of the following resolution:

Resolved, That the prayer of the petitioners ought not to be granted.

Memorial of chiefs of the Tonwanda band of Seneca Indians.

To the Hon. JOHN TYLER, *President of the United States:*

The undersigned, being head chiefs of the Tonawanda reservation, feeling ourselves aggrieved with the proceedings and decisions of the late treaty with the Seneca nation, think proper to give you a history of the proceedings, hoping that you will investigate the subject, and aid us at Tonawanda to retain our native land, which is so dear to us.

Last winter we sent a delegation to Washington for the purpose of presenting the subject of the pretended treaty with the Senecas before the Houses for their consideration. When they arrived at New York, the Society of Friends were holding their annual meeting at that place, and on learning the business of our delegation, they requested them to return home; told them the reason they wished them to return was, they (the Friends) had an intercourse with government on the subject of the treaty, and feared that if they (the delegation) should go to Washington, it would prove injurious to their breaking up the treaty. The Seneca nation had furnished their delegates with all their papers relative to the treaty, and gave them orders to carry them to Washington themselves, and present them before the Houses. The delegates were unwilling to return, when requested, on that account. But the Quakers told them they would take the papers and present them to Congress, and wished the delegates to return home and inform the chiefs, and keep the thing secret for one month. In that time they thought the subject of the treaty would be settled. The next we heard of the subject, we received a letter from the Quakers, requesting the Seneca nation to send a delegation of two or three chiefs from each reservation to meet them in council at Farmington. We complied with their request, and our delegates met them in council. The Friends addressed them, and said, "Brothers, we have met in council, agreeable to appointment," and said that one of the Friends from Baltimore would read a paper which he had from the Secretary of War office, and he read it; and stated that the Quakers had arranged it so that the Indians might know beforehand what the Secretary of War would do; he also said the Ogden Company had a difficulty with the Seneca Indians for three years, and they would negotiate a treaty with them, and restore to the Indians Cattaraugus and Allegany reservations, and retain the Buffalo and Tonawanda reservations. He told us that the two hundred and two thousand dollars was to be paid to us for the two reservations, Buffalo and Tonawanda; one hundred and two thousand dollars for the improved lands; and one hundred thousand dollars for the unimproved lands. If the Seneca nation would not agree to the proposed treaty then, the Ogden Company would do it at any other time. He also stated to our delegates that the Secretary of War would send a commissioner to hold a

general council with the Seneca nation, and that the object the Friends had in calling the council was, that the Indians might be prepared for the commissioner. He further said that the Friends did not want to advise them, but merely to read the compromised treaty. The delegates that went from Tonawanda arose and stated that the proposed treaty had been explained to them, and if the commissioner should come the chiefs would not agree to any such treaty; they were determined to remain on their land: it being the place where they were born, they were unwilling to leave it; and they would say the same when the Secretary came. The chiefs had sent a number of letters to Washington, stating that they were willing to give up all the land which belonged to the emigration party, but theirs they would keep. We were then told by the Friends that the Secretary of War would send a man to hold a council with us. But the first we knew they came themselves, and appointed a day to meet the Seneca nation in council on the Buffalo reservation. We met them, agreeable to appointment. One of the Friends arose and addressed the council, stating that they had come for the purpose of explaining the compromised treaty. That in this treaty the Ogden Company was to restore to the Senecas the Cattaraugus and Allegany reservations; and all that resided on the Tonawanda and Buffalo reservations should emigrate to the two remaining reservations. This was all that the Quakers could do for us. After the Friends had read the proposed treaty, Israel Jamieson, of Cattaraugus, arose and said that he was opposed to the treaty, and should hold his land. The subject of the treaty was discussed for quite a length of time—some in favor of it, and some opposed to the treaty. The Seneca chiefs concluded that as they had no voice in the framing of the treaty, they would propose alterations and amendments, which should be sent to the Secretary of War. They proposed to give up a part of each reservation, reserving to each native that wished to remain twenty acres of land; and, through the influence of G. M. Cooper, consented, if government would not comply with our request, to give our signatures to the proposed treaty, without alteration. We did not understand the subject as it was; had we, we should not have given our consent. Council adjourned to the 16th of May, at Buffalo reservation. The Secretary of War was to be notified to meet us at the same time. Council met, agreeably to adjournment, on the 16th May, at Buffalo reservation. Present, Ambrose Spencer, agent of the Secretary of War; superintendent from Massachusetts; one from New York, and the Ogden Company. Council opened by Mr. Spencer stating that the Indians had sent a letter to the Secretary of War for the purpose of negotiating a treaty with the Seneca nation, and he was sent by government for that purpose. The commissioner from Massachusetts arose and remarked, that if the proposed compromised treaty did not suit them, (the Indians,) they might make such alterations as would satisfy them; that he was sent by the government of Massachusetts to see that the Indians had justice done to them, and not to advise them to sign the treaty, or not sign. Judge Spencer said that his opinion corresponded with what had been said by the commissioner from Massachusetts. Judge Spencer stated to the council that they must keep all interested white people out, because there were so many that came for the purpose of gain, under the pretension of aiding them in breaking up the old treaty. The council was adjourned, and time given for the private consultation of the Indians upon the treaty. After they (the commissioners) had retired, we were informed

that the Ogden Company and Friends commenced conversation with Mr. Spencer, and Mr. Hoar, from Massachusetts, the company saying they were opposed to what they had remarked in council to the Indians relative to their altering the treaty. The commissioners returned to the council. Mr. Spencer said they had heard there was some misunderstanding in the remarks they had made, and wished to explain them. The explanation was different from what they had said first. The Friends then said that the commissioners from Massachusetts and New York had no authority to alter the treaty. And on the 20th of May Judge Spencer put the question, that all those who were in favor of accepting the compromised treaty should make it manifest by rising. The majority was in favor of and signed the compromised treaty, but none from Tonawanda would accept it. Mr. Spencer assumed the office of chairman of the Seneca nation, which was contrary to the wishes of many of the chiefs. There are about forty of the chiefs of the Seneca nation who *did not* sign the late treaty.

We have given a statement of a few of the difficulties with which we are surrounded. Our rights are as dear to us as the white man's, and all we ask is to enjoy them the few remaining days we have to spend in this world, and not to be driven from place to place, but that we may die where our fathers died, and be buried with them. May the Great Spirit direct you in aiding us in this our persecuted and afflicted situation. We wish you to write to us on the receipt of this, and let us know what you will do for us, or what can be done. Direct your communication to East Pembrooke.

Your brothers, head chiefs of Tonawanda,

JIMMY JOHNSON, his x mark.
JOHN BLACKSMITH, his x mark.
JOHN LUKE, his x mark.
BLUE SKY, his x mark.
JESSE TAFFANY, his x mark.
ELY S. PARKER.

TONAWANDA, *June* 1, 1842.

Petition of citizens of Alabama, Genesee county, New York.

To the SENATE OF THE UNITED STATES:

The undersigned, citizens of Alabama, Genesee county, in the State of New York, humbly represent that we believe great injustice is about to be done to the Tonawanda band of the Seneca Indians, by the execution of the treaty of 1842. We believe that treaty to be invalid, for the following among other reasons:

Almost every signature was obtained on the assurance that if it were not signed, the treaty of 1838, driving them from all their lands, would be immediately executed. The company then knew, and now acknowledge, that that treaty could not be legally enforced. Less than two hundred Indians, on all the reservations, could be found willing to sell, and the chiefs who signed the treaty did so not to part with, but as far as possible to save their homes. If they had known their rights as they now do, not twenty signatures could have been obtained.

Of the Tonawanda band, not one chief ever signed either treaty, nor could a single Indian be induced to consent to departure. The treaty gives them for their lands but one-tenth of their value, and nothing for one of the finest water privileges in the State. They have no place to go to except the Indian territory; and of two hundred who went there from Cattaraugus last spring, over eighty died within four months, from the unhealthiness of the climate. They are a moral, industrious, honest people, rapidly improving in their condition, possessing good farms, and are strongly attached to the homes of their fathers. The people of the State of New York do not desire their removal, and have no sympathy with their spoilers.

In view of these facts, we humbly and earnestly petition your honorable body to except the Tonawanda band of Indians from the execution of the treaty of 1842.

R. B. Warren	N. A. Epsworth
H. Pettibone, jr.	W. R. Hopkins
Wm. G. Morse	Samuel Winchel
Thomas W. Allis	James Matteson
Jeremiah Horning	Guy B. Shepard
Abiatha W. Green	A. B. Palmer
H. H. Stage	Allen Rice
John M. Warren	Eleazer Bernis
Chester Miller	E. B. Ingalsbe
George C. Alexander	Selah Vosburgh
Samuel Piper	Levi Ingalsbe
Curtis Barnes	Charles Adams
William Carr	James B. Chambers
Wyatt W. Goodrich	Shubel Franklin
H. H. Hatheway	Walter Rider
Jacob K. Bartlett	Peter Coon
O. S Hathaway	Lorenzo Clark.
Joseph Webster	

Petition of the Tonawanda band of Seneca Indians.

To the honorable the SENATE OF THE UNITED STATES:

The petition of the Senecas residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, respectfully represents:

That in further illustration of the facts set forth in a petition presented to the President of the United States, our Great Father, the guardian of his wards, the petitioners, and to your most honorable body, and sent to your honorable body, accompanied by a message relating thereto from our Great Father the President, are the following:

That we hold our reserved lands separately and in severalty as a distinct band of the Senecas. That as such we have unanimously protested against the sale of our reservation to the Ogden Land Company, or any persons; and more particularly did we protest, solemnly protest, against the treaties of January 15th, 1838, and May 20th, 1842, in which the United States, other portions of the Senecas, and the Ogden Land Company, were parties. That said treaties were made without any of our participation whatever, we being their constant and strenuous opposers; and that no single chief or individual of our band ever approved of them, or

executed them, or entered into any contract, or agreement, or sale, under them. That no chief, warrior, or individual of our band ever at any time or place, or under any circumstances, sold to the Ogden Land Company, or their agents, an acre of our reserved lands, or received a cent for the same from them, or ever made an agreement or treaty of any kind with them.

That the said treaties were made in pursuance of a resolution of your honorable body of June 11th, 1838, under which we, as a distinct band of the Senecas, were to be assenting parties to make them valid and operative upon us; which provision has not been complied with, we having never assented to or acquiesced in them.

It has also been represented to your honorable body, that since the ratification of these treaties a large number of settlers have attached rights, and that in consequence the United States should not reconsider the treaties under which they claim. To this we answer that we are not to blame. Since we are not parties to the vile and iniquitous treaties under which they claim, we ask, what law founded in justice, and what moral principle, can alienate our just rights of title to our lands and homes? We beg that the Senate of the United States may not deprive us, by their action, of the last heritage left us by our fathers, who received it at the hands of the Great Spirit, merely because a few persons may have squatted on our lands. We assert that they are squatting, for they profess to have no title to the lands; but they are paid by the Ogden Land Company to thus settle upon our lands and disturb the public peace. They have settled under our repeated prohibitions and remonstrances. There continues to be the strongest disposition on the part of the Ogden Land Company to steal into the possession of our lands, thus virtually robbing us of our sacred rights, which we pray the Senate, who have the power, may not allow.

We would again urge upon the Senate to consider, that if we leave Tonawanda we have no homes to go to. The Cattaraugus reservation is now full to overflowing, by the addition of a large number of Senecas from the Buffalo Creek reservation. Much of the land at Cattaraugus is poor and hilly, and not capable of sustaining many families. The Allegany reservation is much poorer in proportion than the Cattaraugus, and there is not a sufficiency of good and fertile soil there to support more families than are already settled there. To these facts the Senecas residing upon those reservations will testify, if appealed to. The United States have become aware, also, of the trouble and difficulties ensuing from the condensed state of the Indians at Cattaraugus, and we pray that the Senate will not compel us to remove to a land where constant trouble, misery, and starvation would be our lot. We believe that it would not only be a great injustice, but a great outrage upon our rights, should the United States enforce these treaties, being, as they are, infected with the vilest deception, fraud, and bribery. When we remember that of the number who emigrated under these treaties to the western country last summer more than sixty have already died, and the few who survive are almost daily returning to the homes of their relatives in this State, we again say that the treaties of January 15th, 1838, and May 20th, 1842, are most ruinous and destructive in their operation, and should not be enforced upon us if the principles of justice are to be followed, and if, as we have been repeatedly told, the policy of the government is beneficent, generous, and humane. The United States cannot have failed to perceive that the operation of those treaties, so far as they extend, has been attended with the most ruinous effects. We fore-

saw all these consequences, and hence we would not participate in any of the treaties, or implicate ourselves in any way by becoming parties to them. We prefer our present homes. With the ruinous operation of these treaties, and the sad fate of our brothers who were compelled to remove under their contracts, before our eyes, we cling with a stronger tenacity to our ancient homes, formerly guarantied to us by the United States by treaty covenants. They covenanted never to disturb us in the peaceable enjoyment of our reservation, and that they would never claim the same until we should voluntarily agree to sell. We complain now that we are disturbed in our homes and upon our lands by your citizens, and that our lands are claimed by citizens of the United States, although we have never voluntarily agreed to convey our title to our reserved lands to any person or persons.

Therefore, your petitioners most earnestly and respectfully pray that your honorable body, taking into full and solemn consideration the facts herein set forth, will exercise your power of revision and construction to the above treaties, being, as you are, a part of the treaty-making power of these United States, and so revise and act upon those treaties as you may think fit, and as the immutable principles of justice and equity require, giving to your petitioners an immediate relief from their most unjust and ruinous operation, and establishing us in the permanent and peaceable possession of our lands forever. We have seen with regret the unstable and wavering course of the United States towards us, and for many years the non performance of treaty covenants; and we now ask, that, our petition being granted, the chain of friendship may be renewed and brightened again, thus establishing and strengthening your beneficent policy towards the Indian race.

And your petitioners, as in duty bound, will ever pray, &c.

Chiefs.

Jimmy Johnson, his x mark.
John Blacksmith, his x mark.
Blue Sky, his x mark.
Jesse Tiffany, his x mark.
Isaac Shanks, his x mark.
John Sky, his x mark.
Lewis Poodry, his x mark.
Samuel Parker, his x mark.
Win Washington, his x mark.
John Bigfire, his x mark.
Jesse Spring.
Daniel Spring.
Richard Cooper.
James Williams, his x mark.
George Sky, his x mark.
Lewis Kennedy, his x mark.
Benjamin Jonas.

Warriors.

David Printup, his x mark.
Henry Bigfire, his x mark.
Joseph Taylor, his x mark.
George Moses, his x mark.
John Griffin, his x mark.
Dennis Sky, his x mark.
Johnny John, his x mark.
Gee-ta-no, his x mark.
Daniel Carpenter, his x mark.
Young Hiram, his x mark.
William Kennedy, sr., his x mark.
William Kennedy, jr., his x mark.
William James, his x mark.
Lewis Hotbread, his x mark.
Daniel Fish, his x mark.
John Johnny John, his x mark.
Daniel Peter, his x mark.
Henry Peter, his x mark.
Henry Hill, his x mark.
Billy Stewart, his x mark.
James Stewart, his x mark.
Joseph Jemison, his x mark.
William Jemison, his x mark.
Henry Jemison, his x mark.
Tommy Jemison, his x mark.
Tommy White, his x mark.

Lewis White, his x mark.
Isaac Johnson, his x mark.
Squire M. Jonas, his x mark.
Bill Snyder, his x mark.
William Clute, his x mark.
George Clute, his x mark.
Cornelius Jimmy, his x mark.
Martin Spring, his x mark.
Ephraim Thomas, his x mark.
Levi Moses, his x mark.
Judson Moses, his x mark.
Peter Beaver, his x mark.
John Beaver, his x mark.
Ha-gwe-yais, his x mark.
Gen-de-o-quch, his x mark.
Ha-na-to-da-go, his x mark.
John Possum, his x mark.
John Jack, his x mark.
William Jack, his x mark.
Allen Kennedy, his x mark.
Gilson Snyder, his x mark.
William Snyder, his x mark.
William Bigfire, his x mark.
Da-ga-sa-gars-ta, his x mark.
Samuel Taylor, his x mark.
John Moses, his x mark.
Ho-ha-teh, his x mark.
Squire Brooks, his x mark.
Isaac Doxtator.
Samuel Parker.
James Ganoscrang, his x mark.
John Hatch, his x mark.
Henry Moses, his x mark.
William Moses, his x mark.
Isaac Doctor, his x mark.
William Jimmy, his x mark.
William Parker, his x mark.
John Shanks, his x mark.
Hiram Tommy, his x mark.
James Reuben, his x mark.
Harrison Printup, his x mark.
George Shanks, his x mark.
Erastus Printup, his x mark.
Alexander Printup, his x mark.
Henry Snow, his x mark.
Charles Snow, his x mark.
William Taylor, jr., his x mark.
John Blackchief, his x mark.
William Moses, jr., his x mark.
Charles Doctor, his x mark.
Jacob Doctor, his x mark.
John Lone, his x mark.
Chauncey Lone, his x mark.
Oak-ta-go, his x mark.
Go-an-je-daro, his x mark.
Henry Carpenter, his x mark.
John William, his x mark.
George Elkinton, his x mark.
Jacob Shongo, his x mark.
James Sundown, his x mark.
William Shongo, his x mark.
William Clute, jr., his x mark.
William Fish, his x mark.
George Reuben, his x mark.
Levi Reuben, his x mark.
John Reuben, his x mark.
Tommy Hill, his x mark.
John Hill, his x mark.
John Miller, his x mark.
William Sundown, his x mark.
Joseph Miller, his x mark.
James Johnson, his x mark.
Henry Johnson, his x mark.
John Infant, his x mark.
John Brooks.
David Poodry.
John P. Poodry.
Edward Poodry, his x mark.
George Cooper, his x mark.
Adolphus Cooper, his x mark.
Charles Cooper, his x mark.
Abram Moses, his x mark.
John Big Tree, his x mark.
John Farmer, his x mark.
Andrew John, his x mark.
Alexander Abrams, his x mark.
Ga-go-oh, his x mark.
Joshua Ganoscrang, his x mark.
De-ya-go, his x mark.
Harrison Sundown, his x mark.
Git-gwa-eh, his x mark.
John Jones, his x mark.
Eton Sky, his x mark.
James Tommy, his x mark.
Amos Snyder, his x mark.
Henry Snyder, his x mark.
Charles Taylor, his x mark.
Orin Bigfire, his x mark.
W. Blackchief, his x mark.
William Taylor, sr., his x mark.
Go-gwa-yeh, his x mark.
George Beaver, his x mark.
William Brooks.

I hereby certify that all persons who signed this paper are men of the Seneca nation, and that they did severally and personally sign and make their marks in my presence.

ELY S. PARKER, *Interpreter.*

Petition of the delegation of the Tonawanda band of Seneca Indians.

To the SENATE OF THE UNITED STATES:

The petition of the undersigned, a delegation of the Tonawanda band of the Senecas residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, respectfully represents:

That in addition to the facts set forth in a petition presented to our Great Father the President, addressed to himself and your most honorable body, and sent to your honorable body accompanied by a message relating thereto from our Great Father the President, are the following:

That the Tonawandas hold their reserved lands separately and in severalty as a *distinct band of the Senecas;* that as such they have unanimously protested against the sale of their lands to the Ogden Land Company; and more particularly did they protest, solemnly protest, against the treaties of January 15, 1838, and of May 20, 1842, in which the United States, other portions of the Senecas, and the Ogden Land Company, were parties.

That the said treaties were made without any participation of the Tonawandas in them, (they constantly and strenuously opposing them,) no single chief or individual of said band having ever approved them, executed them, or entered into any contract, or agreement, or sale, under them.

That no chief, warrior, or individual of the Tonawanda band of Senecas ever, at any time or place, or under any circumstances, sold to the Ogden Land Company, or their agents, an acre of their reserved lands, or ever received a cent for the same, or ever made a treaty or agreement with them of any kind.

That the said treaties were made in pursuance of a resolution of the Senate of June 11, 1838, under which the Tonawanda as well as other bands were the assenting parties to make them valid; which provision has not been complied with, they never having assented to or acquiesced in them.

That at and before the time the said treaty of January 15, 1838, came up before the Senate for confirmation, the Tonawandas protested against its confirmation; but which protest, as your petitioners are informed, was not presented to the Senate, or its committee; otherwise, as they firmly believe, said treaty would never have been confirmed; and, in fact, was not confirmed by the constitutional majority of two-thirds of the Senate, as the Journal will show.

Notwithstanding all these facts, the said treaties purport to sell and convey to the said Ogden Land Company, without adequate compensation, the reserved lands of the Tonawandas, and to cruelly and unjustly compel their removal from their lands, their farms, and homes, and from the graves of their fathers.

Therefore, your petitioners most earnestly and respectfully pray that your honorable body, taking into your solemn consideration the facts herein set forth, will exercise your fullest power of revising, annulling, or defi-

ning these treaties, or taking such other action upon them as in your sacred character of guardians of the rights and protectors of the interests of your red children, or in your capacity of the treaty-making power, you may think will best further the ends of justice, remedy the evils complained of, suffered under these treaties, *and relieve your petitioners from their most unjust and ruinous operation.*

And your petitioners will ever pray.

JOHN BLACKSMITH, his × mark.

Witness: WM. LINN BROWN,
W. D. PORTER.

ISAAC SHANKS, his × mark.

Witness: WM. LINN BROWN,
W. D. PORTER.

ELY S. PARKER,

Witness: WM. LINN BROWN,
W. D. PORTER.

Delegation of the Tonawanda band of the Senecas.

Message from the President of the United States, communicating a petition of the Tonawanda band of Seneca Indians, praying that steps may be taken to abrogate the treaties of 1838 *and* 1842.

To the Senate of the United States:

In compliance with the request of a delegation of the Tonawanda band of the Seneca Indians, now in this city, I herewith transmit for your consideration a memorial addressed to the President and the Senate in relation to the treaty of January 15, 1838, with the "Six Nations of New York Indians," and that of May 20, 1842, with the "Seneca Nation of Indians."

JAMES K. POLK.

WASHINGTON, *April* 1, 1846.

WAR DEPARTMENT,
Office Indian Affairs, March 28, 1846.

SIR: I have the honor to report to you on a memorial or petition of the Seneca Indians residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, addressed to the President of the United States and the honorable the Senate.

The memorialists present their views on the subject of the treaties of 1838 and 1842, complaining that these treaties were never signed by them, and that they are not binding upon them, although ratified by the Senate: they therefore pray that the proper steps may be taken to abrogate these treaties; and that the reservations may be again placed under the government of their respective chiefs, setting forth their reasons why this should be done.

This memorial it is the request of a delegation of these Indians, now in Washington, should be presented to the Senate by the President; and it

is herewith enclosed, to be laid by you before him for such action as he may think proper to take upon it.

Very respectfully, your obedient servant,

W. MEDILL.

Hon. WM. L. MARCY, *Secretary of War.*

To his Excellency the President and to the honorable the Senate of the United States:

The petition of the Seneca Indians residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, respectfully represents:

That we did unanimously oppose the treaty of January 15, 1838, and prevented its adoption in open council. That we did also unanimously oppose the treaty of May 20, 1842, and to the last. From the beginning to the end of these movements to take away our lands, we have unitedly and unanimously resisted.

We therefore believe that these treaties should not be executed upon us, if the principles of justice are to be followed. We believe there is no moral obligation upon us to adhere to them; and for denying their force, and resisting their execution, we set forth the following reasons:

1st. The Senate and President of the United States assumed to treat with the Seneca nation as an independent people having power to form a treaty, and bind themselves thereby; and then, by the resolution of June 11, 1838, took away our *independence* by prescribing the manner in which our assent should be given, namely, by the signatures of a majority of our chiefs in open council; when, in fact, by our national laws, it was and still is necessary that *all* of the chiefs should be of one mind; that they must *unanimously* agree to make a treaty—otherwise it cannot be made. In this fundamental law of the Iroquois, and of our nation, we at Tonawanda would have found protection. If the United States treat with us according to the laws recognised among nations, and upon the principles of justice, here is a valid objection to the execution of these treaties, and a sufficient reason why they should be unmade. We never before were required, in our treaties with the United States, to depart from our national forms of assenting to treaties which were to bind us.

2d. If it is insisted by the United States government (which has all the power to carry them into execution) that these treaties are valid notwithstanding this objection, we present as another reason why these treaties should be broken up, that no equivalent is to be given to us for our lands. The peaceful possession of these lands has been guarantied to us by the United States government. The *ownership and the title* were in us. The Ogden Company, to whom the government right to purchase has been transferred, has a mere naked right to purchase when we are ready to sell, and nothing more. They cannot compel us to sell. Now we believe that, by the principles of justice and equity recognised among white people, we are entitled to the full value of our lands. We believe, further, that this reservation, if put in market, would bring $14 per acre on an average, including improvements, while these treaties pay us for the land and improvements about $2 50 per acre on an average. By these treaties, then, we are about

to be despoiled of property which was undeniably ours at the rate of $11 50 per acre, even if we had been willing to sell it at its market value. In a word, over $\frac{11}{12}$ths of all we possess has been taken from us by these treaties, and given to the Ogden Company. The same estimate will hold with reference to the Buffalo reservation. How unholy this speculation! These facts alone must show that treaties so obviously unjust were never made by our nation willingly and fairly; and lead to the inference that our lands have been wrested from us so pointedly as to demand of the government of the United States, from a sense of justice to itself, that the circumstances under which these treaties were obtained should be re-examined, and, if found as represented in this petition, that the treaties themselves should be unmade by the parties thereto.

3d. In the third place, as further reasons why the United States should break up these treaties, at least so far as we at Tonawanda are concerned, we urge the following: If we leave Tonawanda we have no homes to go to. The Cattaraugus reservation is now full to overflowing, by the addition of 450 Senecas from the Buffalo reserve; so much so, that 250 still remain at Buffalo from necessity. The Cattaraugus reservation is small, and much of the land is hilly, and not capable of sustaining any families; and we believe that those already there can scarcely live. The Allegany reserve has also about as many as it can contain and support, and has more poor and hilly land in proportion than the Cattaraugus. It is absolutely impossible that we on this reservation, 500 in number, could live upon the Allegany with those already there. Starvation and misery would be the inevitable result. We cannot go there, and do not intend to, at all hazards. The truth and force of these facts will be realized when it is remembered that our two best reserves, the Tonawanda and Buffalo, are to be taken from us; and if we are all collected upon the remaining two, the number of people will thus be more than doubled at once. It is horrible to believe that the United States government will bring famine and death upon us by executing these treaties. We cannot believe it. It may be said we ought to emigrate to the western wilderness. We answer, that there are less than one hundred at this time, and never have been more than 150, out of 2,500 Senecas, willing to emigrate. We cling to the land of our birth. We are linked together by the ties of brotherhood and consanguinity; and we must share a common destiny. We prefer to progress, as we do now, towards the customs of the whites, rather than to go into the wilderness again, and fall back to our natural or the hunter state.

4th. It is not necessary for us to detail the circumstances by which the treaty of 1838 was carried through. The fact that a majority of the chiefs of our nation did not sign the treaty in "open council," as the resolution of the Senate of June 11, 1838, directed; that some of those who did sign were bribed by money and promises of land; that others were made drunk; that others were made chiefs illegally, for the express purpose of signing; are well known and now admitted. And further, as to the treaty of 1842, although a majority was then obtained, (without the votes of any of the chiefs on this reservation, who all refused either to vote or to sign,) yet the compromise was made by the Senecas under a mistaken knowledge of their rights. The only question settled by that treaty was, whether they would unconditionally [sign, or] whether they would lose all their reservations, or save two of them. It was a mere *sacrifice* of two to *save* two, believing

that the *four* were otherwise lost. The fact that a majority signed under such circumstances, gives no *moral* force to the treaty.

5th. It may be said that under these treaties the rights of the Ogden Land Company have attached; and, if the United States and the Senecas should abrogate these treaties by a new council, the company could recover damages of the government. We answer, that we are not to blame. We did not ask the United States to make a treaty with us. We did not ask the Ogden Company to buy our lands. The first treaty was absolutely thrust upon us, and the last extorted from us, when it was well known that *twenty-three hundred and fifty* out of *twenty five hundred* Senecas were decidedly and unequivocally unwilling to sell any lands.

6th. We may be told that we must look for redress to the courts of New York, or the courts of the United States; and that they will do us justice if we are entitled to any. We answer, that we are also informed that the legal tribunals cannot look behind or below the outward face of treaties which have been ratified, and inquire into the *manner or means* whereby they were obtained. The courts of law, therefore, cannot reach the evil or do us justice. If we look away from the President and Senate, our rights, our lands, and our hopes are gone. The United States government, which authorized a commissioner to make these treaties, can authorize another commissioner to unmake them, and we, on our part as a nation, will most gladly assent.

Your petitioners, in view of all the circumstances, most humbly and earnestly pray, that before April, 1846, the Senate of the United States will pass a resolution recommending to the President that the case of the Seneca Indians demands a new and full investigation; and if the facts are found to be as represented in relation to these treaties, that the commissioner who investigates the facts shall then be authorized to make a new treaty, which shall abrogate all past treaties, and restore the Seneca nation once more to its rights, place each reservation for the future under the control of its separate chiefs, and thus give, in effect, to the Seneca nation that redress which justice, equity, and humanity demand.

And your petitioners, as in duty bound, will ever pray, &c.

Chiefs.

		Number in family.
John Blacksmith,	his x mark	6
James Johnson,	his x mark	2
Blue Sky,	his x mark	19
Jesse Tiffany,	his x mark	3
Lewis Poodry,	his x mark	9
Samuel Parker,	his x mark	
Win Washington,	his x mark	2
John Shry,	his x mark	7
George Babcock,	his x mark	
Richard Cooper,	his x mark	
Benjamin Jones,		
Tall Peter,	his x mark	
Isaac Shank,	his x mark	7
John Bigfire,	his x mark	3
Daniel Spring,	his x mark	5

Warriors.

		Number in family.
John Possum,	his x mark	12
Hau-nase-haa,	his x mark	6
Daniel Shry,	his x mark	7
John Moses,	his x mark	4
Samuel Parker,	his x mark	4
Jackson Ground,	his x mark	
John Brann,	his x mark	14
John Shanks,	his x mark	8
Daniel Bigfire,	his x mark	4
William Taylor,	his x mark	6
William Snyder, sr.,	his x mark	12
Squire Brooks,	his x mark	5
W. Snyder, jr.,	his x mark	6
John Cooper,	his x mark	4
John Jack,	his x mark	4
Joseph Taylor,	his x mark	5
Gar-go-oh,	his x mark	6
John Infant,	his x mark	5
William Glute,	his x mark	5
Isaac Doctor,	his x mark	9
James Shongo,	his x mark	6
Hiram Clute,	his x mark	7
John Blackchief,	his x mark	6
Monroe Jonas,	his x mark	7
Johnny John,	his x mark	10
Billy Stewart,	his x mark	7
David Printup,	his x mark	7
John Lone,	his x mark	7
David Roodey,	his x mark	
Daniel Peter,	his x mark	14
George Cooper,	his x mark	6
John Hill,	his x mark	6
George Elkintor,	his x mark	15
John Peterson,	his x mark	
John Jones,	his x mark	5
Oak-ta-go,	his x mark	6
Har-ar-sars,	his x mark	7
John Miller,	his x mark	9
William Parker,	his x mark	12
Ja-ga-sa-gass-ta,	his x mark	10
John Bigbay,	his x mark	9
Henry Moses,	his x mark	10
James Gar-nos-crog,	his x mark	7
James Joshua,	his x mark	3
William Hatch,	his x mark	6
Isaac Doxtater,	his x mark	7
William Bigfire,	his x mark	5
Isaac Johnson,	his x mark	7
John Brookes,		2
John Shepard,	his x mark	5

James Tommy,	his x mark	
Ephraim Thomas,	his x mark	4
Levi Parker, esq.,		
John P. Poodry,		2
Henry Parker,		
George Moses,	his x mark	6
William Jimmy,		5

I hereby certify that all persons who signed this paper are men of the Seneca nation, and they did severally and personally sign and make their marks in my presence.

ELY S. PARKER, *Interpreter.*

Case of the Tonawanda Indians in brief, accompanied with proofs.

As requested by the committee of the Senate on Indian Affairs, the undersigned has the honor to hand to the committee a list of the points in his argument made before them, and the accompanying proofs of facts.

The following are the points of the case, accompanied with conclusive proof:

Point 1st. That the resolution of the Senate of 11th June, 1838, has not been complied with.

Point 2d. That the Tonawandas are no parties to these treaties, and never assented to them as required by the Senate's resolution.

Point 3d. That from the commencement of these unjust treaties, up to this present time, they have been constant opposers and protestants against them.

Point 4th. That they strip them of their property without an adequate equivalent, and place them in a situation inadequate for their support, entailing misery and want upon them.

Point 5th, lastly. That these treaties are so tainted with fraud and deception, so destructive of all right, and so manifestly cruel and unjust in their operations, as to make it imperative upon the Senate, upon every principle of duty and faith, to grant the prayers of the petitioners, to act upon them and relieve them.

In support of 1st point:

I hand herewith a volume of Indian treaties, (marked A.) At pages 48 and 49, &c., will be seen the treaties of the United States with the Senecas, and their mutual *contracts.* Also a speech on these Indian treaties, (marked C,) in which is the resolution of the Senate under which these treaties were made; and by reference to the treaties, the tribe or band of the Tonawandas not being parties, (as it will be seen,) their lands cannot be taken away under it.

To sustain the 2d point:

I hand herewith a volume of the case of the Seneca Indians, (marked D.) At pages 93, &c., you will see all the parties' names to the treaty of 1838 set out. Also the treaty of 1842, (marked F,) with all the names thereto. Also the memorial of the Tonawandas, (marked L,) signed by all the chiefs and warriors of that tribe; by a comparison of which you will see that not an individual of the Tonawandas has signed either treaty, or assented to them, as required by the Senate's resolution.

In proof of the 3d point:

I present the same volume, (marked D.) At pages 139, 140, and 141; is the protest of all the Tonawanda chiefs and warriors against the treaty of 1838; also the proceedings of the council of 1842. At pages 28, 73, and 74, you will find the reiterated solemn remonstrance and rejection, in open council, of the treaty of 1842, by the principal sachem, for himself and all the Tonawanda chiefs. Also a certified copy of letter to the President, signed by all the Tonawanda chiefs, charging the government of the United States not to receive treaty money from the company, (marked G,) and protesting anew against the treaty of 1842. Also another remonstrance to the President, signed by all the chiefs, against all the acts of the Ogden Company, and receiving treaty money, (marked H.) Also another public protest (marked I) against the sale of the Tonawanda lands at Batavia, addressed to the Secretary of War. These, with those now before the Senate, prove a current of solemn protest, remonstrance, and dissent to these treaties from the commencement to this time.

To sustain the 4th point:

I refer to the petition already presented, (marked G,) in which the whole body of chiefs solemnly aver that their lands now held are *fifty acres* to each *individual*. In connexion with this, I present book marked B; at pages 190, 191, and 193 are tables showing these assertions to be *true*, and an estimate (marked J) elucidating this and giving the result—showing that every assertion in this point is sustained, and that they are *despoiled* of their lands, and are in future to suffer *want and misery* in receiving not sufficient land for support, although they are, as stated in report in book marked B, in a high state of civilization; (pages 189 and 190.)

To sustain the 5th and last point:

I present the whole record, showing fraud and deception throughout practised upon the *Indians* and the *government*. More particularly to show this, I present the document marked M, being the proceedings of the mass meeting of the people of New York, whose sense of justice and moral regard to right have been so deeply wounded by these treaties, that they have risen as *one man* against them. Take these, with the petition of the delegates, (marked L,) and that marked N, accompanying the President's message, and the foundation of it, every averment in which is *proved by documentary testimony* presented to the committee, and the whole charge in this point is fully made out—*presenting a case* that, indeed, in the opinion of the undersigned, makes it *imperative* upon the treaty-making power to *grant the prayer of the petitioners.*

WM. LINN BROWN, *Philadelphia,*
Counsel for the Tonawandas.

A.

A treaty between the United States of America, and the tribes of Indians called the Six Nations.

The President of the United States having determined to hold a conference with the Six Nations of Indians, for the purpose of removing from their minds all causes of complaint, and establishing a firm and permanent friendship with them; and Timothy Pickering being appointed sole agent for that purpose, and the agent having met and conferred with the sachems, chiefs, and warriors of the Six Nations, in a general council: now, in order to accomplish the good design of this conference, the parties have agreed on the following articles, which, when ratified by the President, with the advice and consent of the Senate of the United States, shall be binding on them and the Six Nations:

Art. 1. Peace and friendship are hereby firmly established, and shall be perpetual between the United States and the Six Nations.

Art. 2. The United States acknowledge the lands reserved to the Oneida, Onondaga, and Cayuga nations, in their respective treaties with the State of New York, and called their reservations, to be their property; and the United States will never claim the same nor disturb them or either of the Six Nations, nor their Indian friends residing thereon, and united with them in the free use and enjoyment thereof; but the said reservations shall remain theirs until they choose to sell the same to the people of the United States who have a right to purchase.

Art. 3. The land of the Seneka nation is bounded as follows: Beginning on lake Ontario, at the northwest corner of the land they sold to Oliver Phelps, the line runs westerly along the lake, as far as Oyongwongyeh creek, at Johnston's Landing Place, about four miles eastward from the fort of Niagara; then southerly, up that creek to its main fork; then straight to the main fork of Stedman's creek, which empties into the river Niagara above Fort Schlosser; and then onward, from that fork, continuing the same straight course, to that river; (this line, from the mouth of Oyongwongyeh creek to the river Niagara, above Fort Schlosser, being the eastern boundary of a strip of land extending from the same line to Niagara river, which the Seneka nation ceded to the King of Great Britain at a treaty held about thirty years ago with Sir William Johnston;) then the line runs along the river Niagara to lake Erie; then along lake Erie to the northeast corner of a triangular piece of land, which the United States conveyed to the State of Pennsylvania, as by the President's patent, dated the third day of March, 1792; then due south to the northern boundary of that State; then due east to the southwest corner of the land sold by the Seneka nation to Oliver Phelps; and then north and northerly, along Phelps's line, to the place of beginning on lake Ontario. Now, the United States acknowledge all the land within the aforementioned boundaries to be the property of the Seneka nation; and the United States will never claim the same, nor disturb the Seneka nation, nor any of the Six Nations, or of their Indian friends residing thereon and united with them, in the free use and enjoyment thereof; but it shall remain theirs until they choose to sell the same to the people of the United States who have the right to purchase.

Art. 4. The United States having thus described and acknowledged what lands belong to the Oneidas, Onondagas, Cayugas, and Senekas, and

engaged never to claim the same, nor to disturb them or any of the Six Nations, or their Indian friends residing thereon, and united with them in the free use and enjoyment thereof; now the Six Nations, and each of them, hereby engage that they will never claim any other lands within the boundaries of the United States, nor ever disturb the people of the United States in the free use and enjoyment thereof.

Art. 5. The Seneka nation, all others of the Six Nations concurring, cede to the United States the right of making a wagon road from Fort Schlosser to lake Erie, as far south as Buffalo creek; and the people of the United States shall have the free and undisturbed use of this road, for the purposes of travelling and transportation. And the Six Nations, and each of them, will forever allow to the people of the United States a free passage through their lands, and the free use of the harbors and rivers adjoining, and within their respective tracts of land, for the passing and securing of vessels and boats, and liberty to land their cargoes where necessary for their safety.

Art. 6. In consideration of the peace and friendship hereby established, and of the engagements entered into by the Six Nations, and because the United States desire, with humanity and kindness, to contribute to their comfortable support, and to render the peace and friendship hereby established strong and perpetual, the United States now deliver to the Six Nations, and the Indians of the other nations residing among and united with them, a quantity of goods of the value of ten thousand dollars; and for the same considerations, and with a view to promote the future welfare of the Six Nations and of their Indian friends aforesaid, the United States will add the sum of three thousand dollars to the one thousand five hundred dollars heretofore allowed them by an article ratified by the President, on the twenty-third day of April, 1792, making in the whole four thousand five hundred dollars; which shall be expended yearly, forever, in purchasing clothing, domestic animals, implements of husbandry, and other utensils suited to their circumstances, and in compensating useful artificers, who shall reside with or near them, and be employed for their benefit. The immediate application of the whole annual allowance now stipulated to be made by the superintendent, appointed by the President, for the affairs of the Six Nations, and their Indian friends aforesaid.

Art. 7. Lest the firm peace and friendship now established should be interrupted by the misconduct of individuals, the United States and Six Nations agree, that for injuries done by individuals on either side no private revenge or retaliation shall take place; but, instead thereof, complaint shall be made, by the party injured, to the other: by the Six Nations, or any of them, to the President of the United States, or the superintendent by him appointed: and by the superintendent, or other person appointed by the President, to the principal chiefs of the Six Nations, or of the nation to which the offender belongs; and such prudent measures shall then be pursued as shall be necessary to preserve our peace and friendship unbroken, until the legislature (or great council) of the United States shall make other equitable provision for the purpose.

Note.—It is clearly understood by the parties to this treaty, that the annuity stipulated in the sixth article is to be applied to the benefit of such of the Six Nations, and of their Indian friends united with them as aforesaid, as do or shall reside within the boundaries of the United States; for the United States do not interfere with nations, tribes, or families of Indians elsewhere resident.

In witness whereof, the said Timothy Pickering, and the sachems and war chiefs of the said Six Nations, have hereto set their hands and seals.

Done at Konondaigua, in the State of New York, the eleventh day of November, in the year one thousand seven hundred and ninety-four.

Timothy Pickering, [L. S.]
Onoyeahnee, his x mark, [L. S.]
Konneatorteeooh, his x mark, or Handsome Lake, [L. S.]
Tokenhyouhau, his x mark, alias Captain Key, [L. S.]
Oneshauee, his x mark, [L. S.]
Hendrick Aupaumut, [L. S.]
David Neesoonhuk, his x mark, [L. S.]
Kanatsoyh, alias Nicholas Kusik, [L. S.]
Sohhonteoquent, his x mark, [L. S.]
Ooduhtsait, his x mark, [L. S.]
Konoohqung, his x mark, [L. S.]
Tossonggaulolus, his x mark, [L. S.]
John Skenendoa, his x mark, [L. S.]
Oneatorleeooh, his x mark, [L. S.]
Kussauwatau, his x mark, [L. S.]
Eyootenyootauook, his x mark, [L. S.]
Kohnyeaugong, his x mark, alias Jake Stroud, [L. S.]
Shaguiesa, his x mark, [L. S.]
Teeroos, his x mark, alias Captain Prantup, [L. S.]
Sooshaoowau, his x mark, [L. S.]
Henry Young Brant, his x mark, [L. S.]
Sonhyoowauna, his x mark, or Big Sky, [L. S.]
Onaahhah, his x mark. [L. S.]
Hotoshahenh, his x mark, [L. S.]
Kaukondanaiya, his x mark, [L. S.]
Nondiyauka, his x mark, [L. S.]
Kossishtowau, his x mark, [L. S.]
Oojaugenta, his x mark, or Fish Carrier, [L. S.]
Toheonggo, his x mark, [L. S.]
Ootaguasso, his x mark, [L. S.]
Joonondauwaonch, his x mark, [L. S.]
Kiyauhaonh, his x mark, [L. S.]
Ootaujeaugenh, his x mark, or Broken Axe, [L. S.]
Tanhoondos, his x mark, or Open the Way, [L. S.]
Taoundaudeesh, his x mark, [L. S.]
Twaukewasha, his x mark, [L. S.]
Sequndongquee, his x mark, alias Little Beard, [L. S.]
Kodjeote, his x mark, or Half Town, [L. S.]
Kenjauaugus, his x mark, or Stinking Fish, [L. S.]
Soonohquaukau, his x mark, [L. S.]
Twenniyana, his x mark, [L. S.]
Jishkaaga, his x mark, or Green Grashopper, alias Little Billy, [L. S.]
Tuggehshotta, his x mark, [L. S.]
Tehongyagauna, his x mark, [L. S.]
Tehongyoowush, his x mark, [L. S.]
Konneyoowesot, his x mark, [L. S.]
Tioohquottakauna, his x mark, or Woods on Fire, [L. S.]

Honayawus, his x mark, alias Farmer's Brother, [L. S.]
Soggooyawauthau, his x mark, alias Red Jacket, [L. S.]
Konyootiayoo, his x mark, [L. S.]
Sauhtakaongyees, his x mark, or Two Skies of a length, [L. S.]
Onnashattakau, his x mark, [L. S.]
Kaungyanehquee, his x mark, [L. S.]
Sooayoowau, his x mark, [L. S.]
Kaujeagaouh, his x mark, or Heap of Dogs, [L. S.]
Soonoohshoowau, his x mark, [L. S.]
Thaoowaunias, his x mark, [L. S.]
Soonongjoowau, his x mark, [L. S.]
Kiantwhauka, his x mark, alias Cornplanter, [L. S.]
Kaunchshonggoo, his x mark, [L. S.]

WITNESSES:

Israel Chapin,	William Ewing,
William Shepard, jr.,	Israel Chapin, jr.,
James Smedley,	Horatio Jones, }
John Wickham,	Joseph Smith, } *Interpreters.*
Augustus Porter,	Jasper Parish, }
James K. Garnsey,	Henry Abeele.

B.

Extract from the report of Mr. Schoolcraft to the Secretary of the State of New York, transmitting the census returns in relation to the Indians.

"*The seeds of industry are well sown; letters have been generally introduced, and in some instances they have produced men of talents and intelligence, who have taken an honorable part in the professional and practical duties of life. Very gratifying evidences exist of the adoption, on a large scale, of the improved arts and conveniences of polished life. In manners, costume and address, the Iroquois people offer a high example of the capacities and ready adoptive habits of the race.* It only needs a reference to the statistical tables mentioned, to show that they are not *behindhand in implements of husbandry, vehicles, work-cattle, horses, and the general features of their agriculture.* They are abundantly *able to raise sufficient for their own consumption*, and some of the communities have a surplus which is added to the productive resources of the State. From those who have done so well, and who have shown such unequivocal capacities for improvement, we may expect more. From the tree which has produced blossoms, we may expect fruit; and from the bearing tree which has produced good fruit, we may expect more fruit. Under all circumstances, we may regard the problem of their reclamation as fixed and certain. They have themselves solved it; and whatever an enlightened people and legislature should do to favor them, ought not to be omitted. Churches and societies who have granted their peculiar aids, should continue those aids; and the heart of the philanthropist and the statesman has cause to rejoice, that after all their wars and wanderings, mistakes and besetments, the Iroquois, made wise by experience, are destined *to live.* The results of the census, herewith submitted, demonstrate this. The time is indeed propitious for putting the inquiry, whether the Iroquois are not worthy to be received, under the new constitution, *as citizens of the State.*"

Return of the enumeration of the Indians on the several reservations, with the other statistical information required by law to be obtained in the said reservations.

1. RESERVATIONS.	Total population.	2. Number of male persons in the reservation.	3. Number of female persons in the reservation.	4. Number of married females, under the age of 45 years, in the reservation.	5. Number of unmarried females, between the ages of 16 and 45, in the reservation.	6. Number of unmarried females, under 16 years of age, in the reservation.	7. Number of marriages during the year preceding, in the reservation.
1. Oneida	157	71	86	24	3	47	
2. Onondaga	368	173	195	63	19	73	5
3. Tuscarora	312	148	164	18	10	11	6
4. Buffalo	446	200	246	73	47	61	3
5. Cattaraugus	808	393	415	89	40	30	10
6. Cayugas, on the Cattaraugus reservation	114	56	58	16	6	5	2
7. Allegany	783	390	393	127	33	168	6
8. Tonawanda	505	224	281	101	45	69	4
9. St. Regis	260	126	134	44	5	67	
Total	3,753	1,781	1,972	555	208	531	36

RETURN—Continued.

RESERVATIONS.	8. Number of births in the reservation during the year preceding.		9. Number of deaths in the reservation during the year preceding.		10. Number of persons in the reservation born in the State of New York.	11. Number of persons in the reservation born in any of the other States of the Union.	12. Number of persons in the reservation born in G. Britain or its possessions.	13. Number of children in reservation between the ages of 15 and 16 years.	14. Number of children in the reservation attending private or select unincorporated schools.
	Males.	Females.	Males.	Females.					
1. Oneida	8	5	1	-	155	1	1	59	20
2. Onondaga	6	10	11	12	364	-	1	169	40
3. Tuscarora	5	5	1	3	286	-	30	63	43
4. Buffalo	3	7	14	7	433	1	6	117	57
5. Cattaraugus	17	11	11	13	789	-	7	121	86
6. Cayugas on the Cattaraugus reservation	4	1	3	3	114	-	-	21	14
7. Allegany	13	6	13	13	752	35	-	227	162
8. Tonawanda	5	8	4	3	496	-	11	126	40
9. St. Regis	-	7	5	3	125	-	135	81	
Total	61	60	63	57	3,514	37	191	984	462

Agricultural statistics.

RESERVATIONS.	15. Acres of land.	16. Barley.		17. Peas.		18. Beans.		19. Buckwheat.	
	Number of acres of improved land in the reservation.	Number of acres of barley under cultivation.	Quantity of barley raised therefrom during the preceding year.	Number of acres of peas under cultivation.	Number of bushels raised.	Number of acres of beans.	Quantity raised.	Number of acres of buckwheat.	Quantity raised.
1. Oneida - - - - - -	421	10	200	3½	35	3¼	11		
2. Onondaga - - - - -	2,043¾	2½	70	7¾	91	-	-	2½	50
3. Tuscarora - - - - -	2,079½	20	430	5	65	-	-	18	245
4. Buffalo - - - - - -	1,914	-	-	18½	-	-	-	3	
5. Cattaraugus - - - - -	2,123	96¼	1,300	-	301	-	-	6½	420
6. Cayugas on the Cattaraugus reservation -	316	-	-	-	23	-	-	-	227
7. Allegany - - - - - -	2,163½	6	35	18¼	90	-	-	18¼	
8. Tonawanda - - - - -	2,216	42	550	30	200	1	15	5	112
9. St. Regis - - - - - -	591¼	¾	-	27	105	11	18	8	
Total - - -	13,867½	177¼	2,585	110	910	15¼	44	61¼	1,054

C.

Speech of Mr. Sevier, of Arkansas, in executive session, on the treaty with the New York Indians; delivered in the Senate of the United States March 17, 1840.

Mr. SEVIER addressed the Senate as follows:

Mr. PRESIDENT: The treaty now under consideration is a complicated affair, and on that account, as well as on account of its importance to the Seneca Indians, to the State of New York, to the grantees of the State of Massachusetts, and to the United States, I hope, while I endeavor, in discharge of my public duty as chairman of the committee on Indian Affairs, to explain it, that I shall be indulged with the patient attention of the Senate.

This is a treaty of much more importance than is generally supposed. It is one about which the Senecas and their friends feel, as they have felt for upwards of two years, (during all of which time it has been before the country, in one form or another,) a deep, intense, and an all-absorbing interest. The written appeals of a large majority of this tribe to the President and to the Secretary of War, to the Senate, and to individual Senators, earnestly imploring a rejection of this treaty; the immense mass of testimony with which they have furnished us respecting it; the constant attendance of their delegates here, upon their own expenses, at a great distance from their homes, and at the sacrifice of an utter abandonment of their private pursuits, at all times, when this treaty was before the Senate; and their daily attendance in our galleries, to observe and to gather, if possible, something from our proceedings, show most abundantly the light in which this treaty is viewed by them.

On the other hand, the citizens of New York, and especially those residing about Buffalo, have their wishes and hopes and fears respecting its fate with the Senate. They have furnished us, also, with testimony and memorials, and sage suggestions, upon the subject of Indian policy and Indian welfare. They, too, have had their lobby members and ambassadors here, consisting of both red and pale faces, for the purpose of urging this treaty through this body. Nor are these the only interested parties. Massachusetts seems to have in this treaty something more than a general interest; she seems to have an interest somewhat particular and identical, which I deem important first to consider and explain, that we may fully understand it in all its bearings.

Prior to 1786, Massachusetts claimed, as properly belonging to her, a portion of the State of New York. This claim New York contested; and this somewhat angry controversy was not finally settled, as we learn from the public journals of that day, until 1786. This dispute was then settled, by Massachusetts ceding to New York all her right and title to the *government, sovereignty*, and *jurisdiction* over the disputed territory; and, in consideration of this cession, the State of New York ceded to Massachusetts, and to her grantees, and to the heirs and assigns of her grantees, *the right of pre-emption of the soil of the native Indians* to the territory described in this compromise. The native Indians occupying the territory to which Massachusetts thus acquired the right of pre-emption were then, as now, the Tuscaroras and Senecas of New York.

It was further stipulated in this compromise by New York, that Massa-

chusetts might, at any time, by persons duly authorized by her for that purpose, hold *treaties* and *conferences* with these Indians *relative to a purchase of their lands;* and further, that Massachusetts should have the right to dispose of this pre-emption right to any person whatever. This compromise was approved of and sanctioned by Congress in 1787. A complete and full detail of this contract is to be found in the 4th volume of Journals of Congress of the year 1787, at page 788, to which I respectfully refer any honorable Senator who may desire to see it.

The right of pre-emption being thus secured to her, as well as the right to dispose of it, Massachusetts did afterwards, in 1791, sell this right of pre-emption to the Holland Land Company, and that company to David Ogden, and Ogden to the present claimants. The present claimants being the grantees and representatives of Massachusetts, have the indisputable right to hold *treaties* and *conferences* with the native Indians, for the purpose of purchasing out the Indian right of occupancy; and in exercising this right, though courtesy might seem to require it, this company are under no obligations to consult either New York or the United States. I have not been able to lay my hands upon the contract between Massachusetts and her grantees, and am therefore ignorant of the terms of that contract. But, judging from the interest which Massachusetts invariably manifests upon the subject of the acquisition of these lands, and upon seeing her represented by an agent or superintendent at every sale of them, I have concluded that she considers herself bound by her contract to either New York or her grantees, and probably to both, for the performance of her superintendency upon such occasions. How this matter stands I know not; but should such information be thought desirable by the Senate, I presume the distinguished Senators from New York and Massachusetts can give it.

Mr. President, in considering the various interests involved in this treaty—the interests of the Senecas, of the citizens of New York, and of the grantees of Massachusetts—the committee have thought it their duty to consider, in connexion with those interests, the interests of a fourth party, which is that of the United States. And with a view to understand this complicated affair, the committee have endeavored to trace our relations with the Six Nations of New York, from their commencement up to this day, so far at least as the Senecas are concerned, for the purpose of discovering if there be on our part any *undischarged obligations* to either of the parties interested in the subject-matter now before us. The first treaty which I have been able to find with the Six Nations of New York was concluded in 1784. That was a treaty of peace, a relinquishment of territory on their part, and a definition of their boundary lines on ours. In 1789, five years thereafter, a second treaty was made, which is, so far as I have been able to discover, but little more, if any thing, than a recapitulation of the former one.

The third and last treaty ever made by us with the Six Nations of New York, in their confederated character, (unless the one we are now considering should constitute a single exception,) was made in 1794. This was an important treaty, and has governed us in all our intercourse with them ever since. In that treaty we acknowledged *separately*, to each of the tribes composing the Six Nations, their individual right and title to certain specific reservations of land; and we guaranteed to them *separately* the possession and enjoyment of their respective reservations; and conferred upon them the right to dispose of their reservations respectively, in whole

or in part, to any citizen or citizens of the United States, whenever and however they might choose; and for these rights the Indians on their part engaged, in the same treaty, never to set up any claim to any other lands in the boundaries of the United States, than those granted in that treaty.

This was the last treaty ever made by us with those Indians, collectively or separately, from 1794 up to 1838—a period of more than forty years. From that time onward, to 1838, we acted in good faith, and permitted those Indians, according to the terms of the treaty of 1794, so far at least as the Senecas were concerned, to dispose of their New York lands as they chose. Since 1794, the Senecas have disposed of their lands on several occasions. In 1797, they were permitted to sell to Robert Morris, of Philadelphia, a portion of their reservations. Afterward, in 1802, the same Senecas were permitted to sell another portion of their lands to Phelps, Bronson, and Jones; and again, in the same year, to Wilhelm Willick and others; and again, in 1823, to Grigg and Gibson. Each and all of those sales were made openly, freely, and voluntarily, and under the guardian care *only* of the United States on the one hand, and of the agent or superintendent of the State of Massachusetts on the other. These lands were transferred by the Indians to their grantees, *not by treaty*, but by the ordinary deeds of conveyance; nor does the transfer of those lands to Ogden and Fellows, in 1838, vary in any degree but in the prefixture of a preamble to it, from all the other deeds of conveyance which have been made by them subsequent to 1794.

Having, then, as we have seen by the treaty of 1794, such ample power to dispose of these lands—a power so often and so satisfactorily exercised by them—and the United States having no interest whatever in these lands, and being constitutionally incapable of having any, and not being bound by compact, as in the case of Georgia, to extinguish the Indian title to those lands, it may well be asked, why have we interfered in this affair? Why have we attempted, with unabated assiduity, for more than two years, with our influence, with our agents, and means, and money, to barter with those Indians for their New York reservations? I will endeavor, sir, to unravel this mystery. It is a curious piece of intrigue and history, which should never be forgotten, as it may be of some service to the country hereafter.

As early as 1818, we find the agents of two small bands of New York Indians applying to Mr. Monroe, then President of the United States, for permission to purchase, *with their own means and upon their own account*, of the Menomonies of Green Bay, a portion of their lands. The files of the War Department will show that the grantees of Massachusetts were at the bottom of this simple, unpretending, and modest application; and, among other reasons, we find that religion, which is so often prostituted by the designing to cover up intrigue and sinister motives, was the argument used on that occasion to obtain this permission. It will be recollected that the United States will permit no Indian tribe which they have any thing to do with to dispose of their lands except to the United States. The authority, therefore, of the United States was indispensable to enable the missionaries, Williams and Hendricks, to make a valid purchase of the Menomonies. Mr. Monroe, not foreseeing the objects in view, and understanding distinctly, as their memorial expressly stated, that these two bands were to pay out of their own means for all the lands they purchased of the Menomonies; and further, that they were to acquire, by such purchase, no

other or better right than that held by the Menomonies—so understanding it, Mr. Monroe gave his assent to such a purchase. The assent of Congress, or of the Senate, to such an unusual arrangement, was neither asked nor obtained. It seems to have been looked upon by Mr. Monroe as quite a small affair. Under his authority, thus obtained, the agents of these two small tribes, as *they alleged*, made a purchase, and paid for it, as they informed us, the sum of $12,000. This purchase, however, has ever been strenuously denied by the Menomonies, and the contract made between those Indians, whatever it was—if, indeed, there ever was any—is not now to be found where, surely, if in existence, it ought to be found—in either the Indian Bureau or in the War Department. As matters now stand, however, it is but of little consequence for us to know (unless for the purpose of seeing in what manner we have been imposed upon) whether such a contract ever existed or not. We all know there was a controversy about it between the parties, and that we were drawn into it. This controversy was settled by us in a treaty with the Menomonies in 1832. Thus we see that this small affair, which originally was to be confined to two small tribes, and which on our part was to have been nothing more than a mere naked assent, now loses its insignificance, and begins to swell into a matter of considerable importance. Here we find ourselves placed in a dilemma which was brought about, as they doubtless anticipated, by the early intrigue of this land company. These small bands, under Mr. Monroe's permission, moved to Green Bay; and as the title to the lands they claimed by purchase was controverted, we were called upon to interfere, and (as we supposed, to benefit the Indians) did interfere, and bought out the Menomonies for them, and gave them the lands. And there they are yet. This treaty does not disturb them. This is not all. We have paid back to them not only the $12,000 they allege to have paid the Menomonies, but we have given them a great deal more. We have given them, besides the lands they claim to have purchased of the Menomonies for their $12,000, the sum of $40,000—$5,000 to the St. Regis tribe, and $35,000 to the Oneidas—*as a remuneration to them for their purchase of, and removal to, the Green Bay lands*, under Mr. Monroe's permission. Now, let me ask, if it be not too late, why have we submitted to such imposition? Why have we bought land for these New York Indians, over whom we had no control or jurisdiction? Why have we made large advances to them, without any consideration? We have done so for the double purpose of gratifying New York and this overgrown and grasping land company. We have thus seen Mr. Monroe's permission. of which I have spoken, first leading to an Indian controversy, and then ending in a settlement of it by which we have had to buy land and advance thousands of dollars as remuneration (as it is falsely called) to these New York Indians; and all without the pretext of an obligation or consideration on our part.

I will now, Mr. President, take my leave of the Green Bay Indians, and return to the treaty of 1832. In that treaty, concluded in this city with a delegation from the Menomonies of Wisconsin, we obtained of them, for the sum of $20,000, 500,000 acres of their lands near Green Bay, for the future residence not only of those small bands who emigrated under Mr. Monroe's permission, but for *all* of the New York Indians then residing in New York. We obtained this land, so far as we were concerned, as a mere *gratuity*, and without any other consideration, so far as appears to me, than the wishes of New York and this land company that we should do so.

New York desired this land secured; not so much for the residence of those then residing in Wisconsin, for their welfare had ceased to interest her, but for the New York Indians then within her borders, in the hope that her Indians could be induced to move to them; and in that event, that she would be rid of an Indian population, at the expense of the United States, she was most anxious to get clear of; and that the land company would be able, for little or nothing on their part, to get of them their New York lands, mainly but indirectly at the expense of the United States also. These were the calculations; and hence we find that in that treaty the New York Indians, although apparently so deeply interested, were not parties to it. And why were they not? I will endeavor to inform you, sir.

In the treaty of 1794, the New York Indians engaged to claim no other land within the boundaries of the United States than that particularly described in that treaty. They had modesty and honesty enough to know that there was no treaty ever afterwards made by which we were pledged or bound to purchase land for them at Green Bay, or anywhere else. They knew they had no claim of any character upon us; and not desiring any other lands than those they were possessed of, and seeing no necessity for a treaty, they stood aloof, and had no participation in it. And in this same treaty the Menomonies disclaim any right or just claim of the New York Indians to the Green Bay lands. And this is not the only disclaimer. We find in the printed documents now before us, at page 127, that the Senecas say that "the Senecas have no right or title to that country, (Green Bay,) as we have never accepted or paid for any interest there, nor do we at this time have any claim to that country whatever." And I will add, that in a letter received last night I am informed that the Senecas are now holding a council for the purpose of *retransferring* to you *this gratuity*, which, given to them in 1832 without their knowledge or consent, you seem determined to force upon them, and which they on their part seem disposed just as decidedly to reject—with a full knowledge that the New York Indians then residing in New York had no claims upon us for lands anywhere; and, on the contrary, when we knew they had solemnly engaged, in their treaty of 1794, to set up no claim for any other within the boundaries of the United States than those particularly described in that treaty; yet, with a full knowledge of all this, we made the treaty of 1832.

In that treaty, in which the New York Indians were not parties, it was stipulated, without their consent or knowledge, that they should remove to the lands we purchased for them at Green Bay, within three years thereafter, or else that their right to this 500,000 acres of land should be forfeited, and revert to the United States. This penalty was inserted under a belief that it would not be disregarded by the Indians; but, on the contrary, would be considered of such consequence as to induce their emigration. If it was not so designed, why was a time fixed for their emigration at all? Of what consequence was it to us whether those Indians emigrated this year or next year, or never? Sir, the Indians looked upon the whole of these proceedings, in which they had had no participation, with a provoking indifference and nonchalance. They cared nothing for these lands, or the forfeiture thereof. They considered they had comfortable homes in New York, and there they determined to remain. This temper of the Indians was soon found out by those desiring their emigration; and it was, therefore, necessary to get the time for their removal extended, so that the company could have time to apply the *proper remedies*, and bring about a con-

version of the Indians to an acquiescence in their desired policy. Governed by such considerations as these, we were applied to to change this provision in the treaty; and, as usual, we permitted ourselves, like a nose of wax, to be twisted about by this company, and to gratify them did modify this provision, by a supplementary article to the treaty, so as to leave the time for their removal to the discretion of the President of the United States. So it stands now. Eight years have elapsed since that treaty was made, and yet the President has not required those Indians to move to their Green Bay lands, or notified them, if they did not by a given time, that he should exact the penalty according to the terms of the treaty. The reasons of the President for permitting those Indians to remain upon their New York lands without exacting the penalty, are doubtless benevolent, humane, and praiseworthy. His forbearance upon this subject, thus far at least, is not considered by me just cause of censure. Yet I should consider it his duty, before a great while, to close up this contingent claim. I think if these Indians do not within a reasonable time move to these lands, that they should revert to the United States; and in this reversion they can have no just cause of complaint. Their title to these lands is *conditional—dependent entirely upon their removal to them.* It was a mere gratuity on our part, and cost them nothing, not even solicitation or empty thanks; and now, if they will not accept our proffered gratuity—if they will not occupy those lands, voluntarily tendered to them *on that condition*, there can be no injustice in exacting their forfeiture on their failure to comply with the condition.

Mr. President, we purchased, as before observed, in 1832, 500,000 acres of land at Green Bay, for the future residence of the New York Indians. This purchase being on our part, as before stated, a mere gratuity, and, so far as appears from our records, without the knowledge or solicitation of the Indians, five years thereafter, in the year 1837—for what reasons or at whose promptings we are left to conjecture—it seems to have become suddenly, and all at once, a matter of vital importance for us to purchase out this gratuity—a gratuity which the Indians considered of so little consequence or value to them, that they would neither move to it, nor have it. But no matter for that: we determined to buy back from them what we had given them as a present five years before; and, in furtherance of these views, in 1837 we appointed a commissioner to accomplish for us this all-important object.

A purchase of this Green Bay land was the *ostensible* object of this mission. The *real* object, as I shall show you in the progress of this discussion, was to obtain our influence, and our means and money, to *assist* a dozen or so of land speculators to purchase of the New York Indians their New York lands, for which they held, under Massachusetts, the pre-emption right. And, sir, we have already done so, to some extent. We have purchased out for this company, and for New York, five of the six tribes—all of the New York Indians, except the Senecas—and we have attempted to buy them out also; whether successfully or not, remains to be seen by a decision upon the question now before us.

In 1837, as before observed, we appointed a commissioner, with the ostensible object of purchasing of the New York Indians their Green Bay lands. So soon as this was known, we found much excitement and agitation among the Indians, growing out of their attachment for, and reluctance to leave, their native land. They understood very fully the object of the

negotiation. They knew the Green Bay land was but a *pretext*, and not the *real* object of the commissioner. They understood all this. They knew the object of the treaty was to get from them, for the land company, their New York lands. To overcome these scruples, and to reconcile them to the measure, the agents of the land company went to work, and I will now show you, sir, in what manner:

"Articles of agreement made and concluded this 29th day of July, 1837, between Heman B. Potter, of the city of Buffalo, of the first part, and John Snow, a Seneca chief, of the Buffalo Creek reservation, in the county of Erie, of the second part.

"Whereas, in conformity with the declared policy of the government of the United States, the proprietors of the pre-emptive title of and in the four several tracts of land reserved by the Seneca tribe of Indians, within the said State of New York, are desirous to induce the above mentioned tribe of Indians to accept, for their future and permanent residence, a tract of country in the territory west of the river Mississippi appropriated for Indians inhabiting the Atlantic and other neighboring States; and are also desirous, by fair purchase, to extinguish the right of the said Indians in and to the lands in this State so reserved by them:

"And whereas, in furtherance of these objects, and in order to a future treaty by which to effect the same, the said proprietors have authorized negotiations to be opened with the chiefs and other leading men of the said tribe of Indians, and certain offers to be made to them in money as a permanent fund for the nation, and a compensation for their improvements; and have also deemed it advisable and necessary to employ the aid, co-operation, and services of certain individuals who are able to influence the said Indians to accept the offers so to be made to them:

"And whereas the said Heman B. Potter, the party of the first part, is empowered to act on behalf of the said proprietors, and to contract with any individuals whose co-operation and agency may be necessary and efficient in accomplishing the above mentioned object; and the said John Snow, the party of the second part, has agreed to contribute his influence and services in the premises; and in case of the extinguishment of the said Indian title to the said reserved lands as aforesaid, to sell to the said proprietors all and singular his improvements of, in, and to the same:

"Now, therefore, it is mutually agreed by and between the parties hereto, as follows:

"First. The party of the second part undertakes and agrees to use his best exertions and endeavors to dispose and induce the said Indians to adopt and pursue the advice and recommendations of the government of the United States, in respect to their removal and future location; and on such *said* terms as the party of the first part, and his associates, in the name of the said proprietors, shall propose to sell and release, by treaty, their said reserved lands; and on all occasions to co-operate with and aid the said party of the first part, and his associates, as he may be from time to time advised, in talks and negotiations with the chiefs and other influential men of the said tribe; and in the active application of his whole influence at councils, and confidential interviews, for the purpose of effecting a treaty between the said tribe and the said proprietors, for the extinguishment of the Indian title to the said reserved lands.

"Second. The second party of the second part hath sold, and hereby doth sell, to the said proprietors, all and singular his buildings and im-

provements on the lands so to be released by treaty, and agrees to accept compensation therefor in the manner hereinafter mentioned; said buildings and improvements in the mean time not to be leased nor in any manner disposed of by said party of the second part.

"Third. In consideration of such efforts, co-operation, and services on the part of the said John Snow, faithfully bestowed in the premises, and of the sale and release of all and singular his said buildings and improvements upon any of the lands aforesaid, without leasing or otherwise disposing of the same, as hereinabove stipulated, the said Heman B. Potter, on his part, and that of his associates, agrees to pay, or cause to be paid, to the said John Snow, the sum of two thousand dollars, within three months after notice of the ratification, by the Senate of the United States, of a valid treaty between the said tribes and the owners of the said pre-emptive title, or their trustees, by which the right and title of the said Indians shall be effectually released and extinguished in and to the said reserved lands; subject, however, to the following qualification and understanding: that in case the said treaty shall provide for the payment to individual Indians for their buildings and improvements, then and in that case the said party of the second part shall accept and receive, as part payment of the above-mentioned sum of two thousand dollars, such sum or compensation as he shall or may be entitled to, by and under the provisions of such treaty, for his said buildings and improvements, and the balance of the said two thousand dollars which shall remain, after deducting therefrom such compensation as aforesaid, and that only to be paid by the said party of the first part, as above specified, within the time above mentioned, or as soon thereafter as the said balance can be ascertained; and in case said party of the second part shall be entitled, by and under the provision of said treaty, to the sum of two thousand dollars and upwards, he shall receive the same as may be therein provided, and the said party of the first part shall be discharged from paying any part of said two thousand dollars.

"And the said John Snow shall also be entitled, at a nominal rent, to a lease from the owners of the pre emptive title, or their trustees, of and for the lot of land actually improved and occupied by him, called the Whipple farm, near the old council house, on the Buffalo reservation, for and during his own natural life, determinable when and as soon as he shall cease to live on and occupy the same; said lease to be executed by the lessors as soon after said treaty as said lands shall have been surveyed and allotted, said lease having reference to said survey.

"This agreement on the part of said party of the first part being expressly dependent upon a treaty to be made and ratified upon terms, conditions, and stipulations to be proposed and offered by the said party of the first part, and his associates.

"H. B. POTTER, [SEAL.]
his
"JOHN × SNOW, [SEAL.]
mark.

his
"Witness: GEORGE × JIMESON,
mark.

"True copy: "M. B. PIERCE.

"P. S.—Marius B. Pierce, above named, is one of the chiefs who signed the Buffalo treaty."

"Articles of agreement made and concluded this 7th day of August, 1837, between Heman B. Potter, of the city of Buffalo, of the first part, and Samuel Gordon, a Seneca Indian, of the Cattaraugus reservation, in the county of Erie, of the second part:

"Whereas, in conformity with the declared policy of the government of the United States, the proprietors of the pre emptive title of and in the four several tracts of land reserved by the Seneca tribe of Indians, within the said State of New York, are desirous to induce the above-mentioned tribe of Indians to accept for their future and permanent residence a tract of country in the territory west of the river Mississippi appropriated for Indians inhabiting the Atlantic and other neighboring States, and are also desirous, by fair purchase, to extinguish the right of the said Indians in and to the lands in this State so reserved by them:

"And whereas, in furtherance of these objects, and in order to a future treaty by which to effect the same, the said proprietors have authorized negotiations to be opened with the chiefs and other leading men of the said tribe of Indians, and certain offers to be made to them in money, as a permanent fund for the nation, and a compensation for their improvements, and have also deemed it advisable and necessary to employ the aid, co-operation, and services of certain individuals who are able to influence the said Indians to accept of the offers so to be made to them:

"And whereas the said Heman B. Potter, the party of the first part, is empowered to act on behalf of the said proprietors, and to contract with any individuals whose co-operation and agency may be necessary and efficient in accomplishing the above-mentioned object, and the said Samuel Gordon, the party of the second part, has agreed to contribute his influence and services in the premises:

"Now, therefore, it is mutually agreed by and between the parties hereto, as follows:

"First. The party of the second part undertakes and agrees to use his best exertions and endeavors to dispose and induce the said Indians to adopt and pursue the advice and recommendation of the government of the United States in respect to their removal and future location; and on such fair terms as the party of the first part and his associates, in the name of the said proprietors, shall propose to sell and release, by treaty, their said reserved lands, and on all occasions to co-operate with and aid the said party of the first part and his associates, as he may be from time to time advised, in talks and negotiations with the chiefs and other influential men of the said tribe; and in the active application of his whole influence at councils and confidential interviews, for the purpose of effecting a treaty between the said tribe and the said proprietors, for the extinguishment of the Indian title to the said reserved lands.

"Second. In consideration of such efforts, co-operation, and services on the part of the said Samuel Gordon, faithfully bestowed in the premises, the said Heman B. Potter, on his part and that of his associates, agrees to pay, or cause to be paid, to the said Samuel Gordon, the sum of five thousand dollars, within three months after notice of the ratification, by the Senate of the United States, of a valid treaty between the said tribe and the owners of the said pre emptive title, or their trustees, by which the right and title of the said Indians shall be effectually released and extinguished in and to the said reserved lands.

"This agreement, on the part of said party of the first part, being expressly dependent upon a treaty to be made and ratified upon terms, conditions, and stipulations to be proposed and offered by the said party of the first part, and his associates.

"H. B. POTTER. [SEAL.]
"SAMUEL GORDON. [SEAL.]

"Witness: O. ALLEN.

"It is understood and agreed that the sum of one thousand dollars is to be added to the within contract.

"O. ALLEN.
"H. P. WILLCOX.

"SEPTEMBER 29, 1838."

There are six other contracts of a similar character, which I will not take up the time of the Senate to read. These eight have lately come to light. How many are yet behind, undisclosed, time will tell.

Here, Mr. President, we have a few illustrations, most liberal and honest and patriotic illustrations, of the means used by the agents of this land company, and under the authority of the proprietors, to induce the leading and influential chiefs to sell the lands of their unwilling constituents. Here we see, under the very nose of our commissioner, and at the moment of commencing his negotiation, *ostensibly* for the purchase of their Green Bay lands, the sum of *twenty one thousand six hundred dollars* in cash, besides leases, some for a term of years, some for life, some during occupancy, and one grant in fee simple, offered and promised in writing to eight leading and influential chiefs, by this land company, as rewards, or rather as *bribes*, for serving this company *faithfully*, with their influence, *in council and in confidential interviews with the other Indians, so as to effect a treaty with the government for their Green Bay lands, and so as to effect a release and relinquishment of the Indian title to the proprietors of their reserved lands in the State of New York; and in case of success in these double negotiations, and in the event of their ratification by the Senate of the United States, then these bribes were to be consummated, and not otherwise.*

By these dark and midnight transactions, the order of things was to be curiously reversed. The *emigrating party* were to stay in New York upon their leases, and the *non-emigrating party* were to be transported beyond the Mississippi. And are these contracts denied? No, sir; they are unblushingly and shamelessly admitted and justified! They are admitted and justified by Seneca White, one of the chiefs in favor of the treaty and of emigration, in his speech to the Secretary of War last August. They are admitted and justified by N. Strong, another chief in favor of the treaty and of emigration, in his letter to the President of the 9th of last March. They are admitted by Orlando Allen, a white man, and one of the active agents of the land company, and justified, in his letter to the President of the 11th of last March. And pray what is the justification?

Mr. Allen tells us, in his testimony, which he communicated to the President last spring, "that he *has understood* (and believes the attempt was never made to conceal it) that provision was made for some of the chiefs, in accordance with all former usages among the Senecas." Yes, sir; Mr. Allen may well say *he has understood* that provision was made for some of the chiefs; for I find this same Orlando Allen, who, under oath, speaks so *doubtingly*, as though by hearsay only, is a subscribing witness to at least two

of these contracts. But, as to his *belief* that there were no attempts made to conceal these contracts—contracts which were for *secret* influence and *confidential services*—we, of the committee, who have travelled through this whole mass of testimony, will believe just as much of this part of his testimony as we please; and that is precious little of it, if any. While voluntarily furnishing a part of his testimony for the benefit of the President, he would have done but an act of justice if he had given him, in addition, that part of his testimony taken on the same occasion; which was, that he was an agent of the company, and *directly interested* in the success of the treaty. Mr. Allen assimilates these rewards promised and given to these chiefs, in this underhanded and clandestine manner, to the annuity given to Red Jacket, Corn Planter, and others. Sir, there is no similitude in these cases. What was given to Red Jacket, Corn Planter, and to the others he has named, was given in open day, in the presence of the nation, and with the knowledge and approbation of their tribes. But enough of all this, for the present at least.

Sir, the Indians being thus tampered with, and prepared, by bribes in advance, for the occasion, our commissioner entered upon the stage for the performance of his part of the drama. And, sir, not to be tedious, to pass over a thousand details, and to come at once to the result, I will inform the Senate that our commissioner, after a protracted negotiation, did actually succeed in purchasing for us the Green Bay lands. And he got these lands for us for the very trifling and frivolous consideration of $400,000 in cash, and 1,800,000 acres of land west of and adjoining the State of Missouri. Here is a negotiation for you, which I am satisfied that nothing but patience and perseverance, and skill and dexterity, and adroitness, aided with good friends to "back his suit withal," ever could have achieved. This $400,000 in cash, and 1,800,000 acres of land, is all that our commissioner agreed to give for 435,000 acres of land at Green Bay, which, five years previously, we gave these Indians gratuitously, and which gratuity they would neither move to nor accept of us as a present!

Appended to this treaty we find an ordinary deed of conveyance from the Tuscaroras to Ogden and Fellows, of all their title to nineteen hundred and twenty acres of land; and from the Senecas a similar deed of conveyance to Ogden and Fellows of all their title to one hundred and sixteen thousand acres of land, all lying in the State of New York, and some of it in the neighborhood of Buffalo, and making altogether, from both tribes, in round numbers about 118,000 acres of land, for which Ogden and Fellows agreed to pay the sum of about two hundred and eleven thousand dollars—*not quite two dollars per acre.* These deeds are honored with a preamble, and recite the important fact that a treaty had been concluded between our commissioner and these Indians. These deeds are otherwise distinguished by being *approved*, not only by the superintendent of Massachusetts, whose duty it probably was to approve them, but they were also approved of by our commissioner—not as a witness, but in his official capacity; and what is still more remarkable, when this treaty came to the Senate, in 1838, for ratification, these deeds came with it.

Well, sir, what next occurred? The treaty was read in the Senate, was properly referred, and then your committee went to work upon it. They found it so *essentially defective*, that it was out of their power to recommend its ratification. The objections to it were communicated, among others, to the Senators from New York. Some alterations in it were suggested

by the War Department, and all agreed, without a dissenting voice in any quarter, so far as I recollect, that it could not be ratified in the form in which it was executed. We amended it, and so thoroughly as to make nearly a new treaty out of it; and in these amendments the Senate concurred, and I believe with unanimity.

While this treaty was before the committee, we heard many complaints from the Indians and others against the treaty. Fraud, unfairness, and bribery, of which *at that time* we had no evidence, were charged; and it was stated that a majority of the chiefs neither approved of nor had signed the treaty, although from the preamble it purported to have been executed in council, and properly assented to. To guard these charges, the Senate *adopted the resolution of the 11th of June, 1838, which was recommended by the Committee on Indian Affairs, and which is as follows:*

"*Provided always, and be it further resolved, (two-thirds of the Senate present concurring,)* That the treaty shall have no force or effect whatever, as it relates to any of said tribes, nations, or *bands* of New York Indians, nor shall it be understood that the Senate have assented to any of the contracts connected with it, until the same, with the amendments herein proposed, is submitted, and fully and fairly explained, by a commissioner of the United States, *to each of said tribes or bands separately assembled in council, and they have given their free and voluntary assent thereto;* and if one or more of said tribes or bands, when consulted as aforesaid, shall freely assent to said treaty as amended, and to their contract connected therewith, it shall be binding and obligatory upon those so assenting, although other or others of said bands or tribes may not give their assent, and thereby cease to be parties thereto. *Provided further,* That if any portion or part of said Indians do not emigrate, the President shall retain a proper proportion of said sum of four hundred thousand dollars, and shall also deduct from the quantity of land allowed west of the Mississippi such number of acres as will leave to each emigrant three hundred and twenty acres only."

Thus it appears that we sanctioned the treaty of the 15th January, 1838, on the *express condition* that the treaty, as amended by us, should be approved of by a majority of the *chiefs of each tribe separately assembled in open council,* and after it had been by our commissioner fairly and fully explained in *open council,* and by a majority of them freely and voluntarily assented to in open council.

Well, sir, what next? With the treaty, as amended, our commissioner was once more despatched to his red brethren, with whom he had previously been so very successful, to obtain their assent to the treaty in its amended form. He received his instructions on the 9th of July, 1838, and was at his post in the month of August following. He succeeded in obtaining the assent of all the tribes but *the Senecas.* These he found, as usual, a little refractory. He met them in council on the 17th of August, in a council-house he had built for the purpose; and as many of the chiefs were absent, he, at the request of the Indians, adjourned the council for three days. On his return on the 20th, he found his council house *burnt down*—the work of an incendiary. He built him another, and then fully and fairly explained the treaty and the amendments made to it by the Senate. He found the Senecas decided, not upon the subject of selling us the Green Bay lands, but upon the subject of *emigration,* which to us was a matter of no

consequence. He gives us the decisions in the tribe in a very minute and satisfactory manner. He then tells us that

"It will be recollected that at the time of making the original treaty, providing new homes for these Indians at the west, and the means of removing and subsisting them, another treaty was signed between this tribe and the pre-emption owners, under the supervision of a superintendent from Massachusetts, conveying the Indian rights to their several reservations in New York. That treaty of sale was ratified by the governor and council of Massachusetts. At the late council, it was the sale under this treaty, and not the advantages secured under the one negotiated by me, that formed the principal subject of consideration. The government treaty was generally conceded to be liberal and advantageous; still there appeared to be a settled purpose on the part of some to misrepresent the value of the advantages secured under it, as one means of defeating the other."

Here, Mr. President, we have the whole story, fresh, full, and complete, from the lips of our frank and candid commissioner. *It was the sale to the land company*, brought about, as I have shown you, by bribery and corruption, that has occasioned the failure of our commissioner in perfecting, from this tribe, the purchase of their Green Bay land. Our treaty, he tells us, was considered liberal and advantageous, and with it no fault was found; and I confess it would have been passingly strange to me, if there had been any objections to it.

And now let me ask, if our *real* object had been to purchase the Green Bay land, why was our treaty embarrassed by negotiating with them for their removal beyond the Mississippi? Why not let them remain? they are not in our way. We are not bound in any manner, that I know of, to purchase their lands for these pre emptioners. What have they done for "the State," that we should give them a million or so of dollars, in cash and land, to aid them in their speculations? Sir, our commissioner desired honor, and glory, and promotion; and he was taught to believe, and no doubt truly, that if by negotiation he could succeed in getting those Indians out of New York and over the Mississippi at the expense of the United States, glory, and honor, and promotion would be his reward.

Sir, the Green Bay lands, if ever the subject of *serious* discussion at any time, were all along considered but a trifling matter with either the Indians or our negotiator. But I proceed; for I have yet, sir, a good deal of ground to travel over.

The commissioner tells us, that, "at an early period of the council Marius B. Pierce, then an opponent of the treaty, in public council, proposed to me the following questions:

"1. If the amendments of the treaty were not now assented to, whether I could adjourn the council; and whether, if not adjourned, it could be again convened?

"2. Whether the Senate could recede from its amendments?

"I was also asked, at about the same time, by others in council, whether the deed to the pre-emptive purchasers, being ratified by the governor and council of Massachusetts, was obligatory upon the nation, without further action on the part of the nation? Also, whether the Senate of the United States had any legal jurisdiction over the subject?"

To those questions the commissioner declined giving any answer; and as he has not condescended to tell us why these questions were asked, I will endeavor to supply his omissions, as I feel myself able to do, from the testi-

mony before us. The first question was asked because the opponents of the treaty then had a majority in council against the treaty, and were able to vote it down, and he was apprehensive that the commissioner might keep adjourning the council from day to day, until a majority might be got *in some way or other* to assent to the treaty. He and his friends were then neglecting their private affairs; were poor, without money, and depended for their bread upon their daily labor. They wanted to see the council closed, that they might go home; they were unwilling that the council should be kept open any longer, or convened again after it was closed. These were Pierce's reasons for asking the first question.

He asked the second because he had been told, as an inducement for their agreeing to the treaty, that the Senate would, *if necessary*, recede from its amendments, and that the treaty would be ratified as originally made; and then, in that event, they would lose the *rewards* and *life leases*, &c., which they then had it within their power to obtain from their friends, the generous and liberal minded pre-emptioners.

The third question was asked because they were told the New York land was gone at any rate; that their deeds had been approved by the governor and council of Massachusetts. The commissioner also declined answering this question; but afterwards, "learning that General Dearborn had expressed a *different opinion*," (from that expressed by the head of the Indian bureau, and by Mr. Ward, a clerk of that bureau,) "I informed the council of it, and General Dearborn gave Governor Everett's reasons for his opinions. The Indians were then left to form their own conclusions on the question of title and probable action of the Senate. *I then informed the Indians that, if the interests of the Indians required it*, I believed I had the right, and should adjourn the council to some future day." Yes, sir; and he did adjourn the council. The opinions of Governor Everett respecting the validity of the sale produced this result. The pre-emptioners could no longer frighten them "with the scarecrow" that their lands were gone. This being the case, it became necessary for the pre-emptioners to change their mode of attack; and time was necessary to agree upon the *modus operandi*, and therefore the council was adjourned.

The next entertainment we have of the commissioner is as follows:

"Learning from the discussions in council that many desired to remain longer than five years on their reservations, I induced the agent of the pre-emptive owners, on the 26th of September last, to authorize me in writing to say to the council that he would, on behalf of the pre-emptive purchasers, agree to allow them to occupy their farming lands ten, instead of five years. His proposition is marked No. 30. This offer did not, as *was anticipated*, produce unanimity of feeling. Some said it was their desire to remain for their lives; but that they were willing others might remove if they chose to do so. In connexion with General Dearborn, I requested the agent to offer life leases, free of rent, to all who chose to remain. His offer to do so is marked No. 31. Without consulting with a single individual, a chief in the opposition by the name of Israel Jemison rose and stated that he was authorized to say that the opposition *unanimously* declined the proposition. Knowing that no one had authorized him to speak on a subject but that moment named in council, I did not consider his statement entitled to any respect. No one of the opposition rising to set him right in such a case of palpable falsehood, I became satisfied of the truth of the allegation so often

made, that many *dare* not speak their minds in council, and that compulsion was used to prevent chiefs from signing."

He talks of *fear* and compulsion. Why should they fear? Why should Indian warriors manifest a timidity which, in a virtuous cause, would disgrace even their squaws? They fear because they are in a minority, and know they are doing, *from base and mercenary considerations*, what a majority of their people disapprove of. Their fear is but the palpable evidence of a guilty heart! An honest man, red or white, fears nothing! Cowardice and trembling are the attributes of a guilty conscience!

He tells us that,

"Immediately after communicating and explaining the offer of life leases to all who desired them, I presented the manuscript copy of the amended treaty, to which I had attached a written assent. I informed the council that those who chose to do so could sign it there, and those *who, from fear* or *other cause*, preferred signing at my room in presence of myself, the superintendent from Massachusetts, the agent, and such other persons as might be present, might do so. I then received sixteen signatures, and subsequently at my room, in presence of General Dearborn, thirteen, and two other signatures at the rooms of chiefs who were too unwell to attend council; making in all thirty-one chiefs."

Yes, sir; with all the bribery I have previously alluded to, with *life leases, free of rent, for all who chose to stay, embracing the whole tribe*, we yet find the commissioner unable to get, in *open council*, as he was required to do by the resolution of the 11th June, 1838, but *sixteen signatures of assent*, out of eighty one, to the amended treaty; and, in addition to these sixteen, he obtained afterwards, *not in council*, but at his *private lodgings*, the signatures of assent of thirteen more, and at *their own residence* the signatures of two others; making, in all, but thirty-one, obtained, as before stated, out of eighty-one chiefs belonging to the Seneca nation. Finding this to be the case, he then, on the 2d of October, after laboring, if not praying and fasting, for upwards of forty days in the wilderness with the heathens, informed the *agent of pre-emptioners*, (*not the Indians with whom he was negotiating*)—

"That he should adjourn the council, as there seemed to be no more disposed to sign the assent. A question having been raised, (he tells us) whether the assent had been sufficiently signed or not, (that is, whether thirty one, if there had been no objection to the *manner* of obtaining their signatures, was a majority of eighty-one,) he (the agent of the land company) desired me to adjourn to a future day, and that in the mean time I could report to you."

He adjourned the council to the 15th of November.

"I read them a talk, which is marked No. 39. The Indians who are opposed to emigration did not object to this adjournment; and, in making it, I did what I thought due to them and *to the purchasers*. If the assent is not sufficiently signed, it may be done at a future day, and the emigration party, who have listened to the advice of the government, may be saved from the oppression which would otherwise await them. If there were not signatures sufficient to meet your approbation, and it should turn out that the legal title is in the purchasers, then the condition of the Senecas would be deplorable. They would be without a home, though one had been freely offered to them."

Poor Senecas! how stubborn and stiff necked they are! Why will they not listen to the pathetic advice of the government, so eloquently delivered,

and save themselves from oppression? Why will they not see that if it should so happen that the title to their lands is vested in the purchasers, how deplorable will be their condition? Why will they not see (what no one else but the commissioner could perceive) that if the treaty should not be assented to they would be without a home—without even their Green Bay lands, which they refuse to sell us? What insanity! How unreasonable they are in desiring to retain their ancestral homes and firesides! How cruel and hard-hearted they are in refusing to gratify the *humane* and *benevolent*, and *Indian loving*, and *God serving pre-emptioners!* Oh, Senecas! Senecas!! how you astonish your gray-headed fathers of the Senate!

Mr. President, we now find our commissioner laying aside his poetry and his predictions, and talking mathematically. After stating the number of chiefs who signed the treaty, and their *manner of signing it*, he then puts the question to the Secretary of War to know if it be necessary to have the assent of all the chiefs upon the reservation.

"If so, [he says] it was not sufficiently signed *in my presence*. [And he might have added it was still *less sufficiently* in *open council*, as it was required to be done by the Senate's resolution.] If not, need it be signed by more than a majority of all who at any time attended the council? [He then reminds us of what we would not otherwise probably have thought of—that this is what is usually required in legislative bodies; and reasoning from analogy, the assent is sufficiently signed.] If it requires a majority of all who may have been from time to time, for short periods, at council, it is not in my power to give you the necessary facts whereon to decide."

Now, sir, our most worthy commissioner (who is an ex-member of Congress, and who, on that account, should be presumed to be familiar with the proceedings of deliberative bodies, has lost sight of one very important point in his analogy; which is, that the official acts of members of Congress out of their respective houses (*alias* the councils) are nugatory. Does he not know that if members of Congress were to sign their assent to the passage of bills, or if Senators to the ratification of treaties, at their private rooms or lodgings, as this Indian assent (in part) was signed, it would be nugatory, nonsensical, and unconstitutional? I leave the question to himself to answer. Speaking of analogies, I will go a little further; and as he has said it better than I can say it, I will avail myself of the remarks of Governor Everett upon this subject:

"The treaty-making power [says the Governor] is granted by the constitution in general terms. No modification of its exercise in reference to Indian tribes is recognised, as it would certainly be unconstitutional for the President of the United States to attempt to treat with individual members of any foreign State or government, (not duly authorized to represent such body.) or to attempt to obtain the ratification of a treaty by means of the assent of individuals of the Senate, not duly assembled and acting as such." "I remain of opinion that the constitutionality of attempting to obtain the assent of individual Indian chiefs to the amended treaty in the manner in question is doubtful."

Sir, were ever these old, safe, rational, and salutary rules dispensed with by our government in treating with any nation, foreign or domestic, civilized or savage? I know of no dispensation of those time-honored and customary forms in any case whatever. I hold, that if it be necessary to treat at all, we should treat according to the ordinary and constitutional forms.

The commissioner concludes his report by telling us, what we could well

have imagined, that all the expenses of the amended treaty had been defrayed by the United States; and thinks if any further expenses are to be incurred, the pre emption purchasers should pay *their part of it*. He ought to have said the *whole of it*, as it would all be for their private benefit.

The report of General Dearborn to Governor Everett corresponds, in the main, with that of Mr. Gillet, and therefore I shall not be considered, I hope, as treating that able State paper with disrespect, if I dispose of it very briefly.

General Dearborn tells us that

"Among the numerous and very cogent reasons which were urged by the commissioner for inducing the Indians to assent to the amended treaty, during the progress of the long protracted deliberations, he observed that he had been directed by the officer at the head of the bureau of the Indian department to state, as his opinion, that the contract of the Indians for the sale of their right of possession to the Ogden company was complete, and might be carried into effect, whether the treaty with the United States was ratified or not.

"As this was the only statement made by the commissioner to which I did not fully concur, I informed the chiefs it became my duty to announce to them that the governor of Massachusetts entertained a different view of the subject; and was authorized to state, that unless the amendments made to the treaty were assented to, he considered the contracts for the sale of their right of possession null and void, but that he did not undertake, peremptorily, to decide a question of such great importance; that it was one which required the most grave and deliberate consideration, and must ultimately be referred to the highest judicial tribunals of the country, if it should be insisted on by the pre emptioners.

"It was, therefore, for the chiefs to determine how far their decision was to be influenced by the doubtful position in which the subject was placed, from these conflicting opinions; for if they should reject the treaty, and the contracts for the sale of their reservations were declared binding, they would be left without a home."

This disclosure needs no comment. The unfairness and reprehensibility, on the part of the commissioner, of the use of such terrible and unsound arguments to the ignorant Senecas, is obvious to all. The General also tells us that

"The commissioner was induced to afford the last named accommodation in consequence of having been informed that there were several chiefs who were in favor of emigration, but were afraid to sign the treaty publicly, as they had been threatened with fatal consequences if they did. Intimidation has been extensively used by the leaders and their partisans in the opposition, for the purpose of defeating the wishes of those who are desirous of removing to the west. The commissioner was informed by the chiefs of the Tuscaroras that threats had been sent to them from the Tonawanda reservation, to deter them from ratifying the treaty.

"It had been repeatedly represented, during the last council and the present, that there were a number of Indians, and especially among the aged, who were desirous to remain here, and who often observed: 'Let the young go to the new country, beyond the great river, if they wish, but we are too old to begin new establishments; we had rather live and die where we have so long resided, on the land of our fathers.' To obviate this objection to the ratification of the treaty, the commissioner recommended to

the pre-emptioners that they should offer to give leases for life, free of rent, to such Indians as were anxious to remain, and I concurred in opinion as to the propriety of that measure, believing that it would not only be just towards the Indians, but considered as beneficent, magnanimous, and liberal on their part, let the result be what it may; that I considered it important it should be done in open council, and made general in its operation, to preclude every ground of complaint or misrepresentation.

"The pre-emptive agents having been finally induced to adopt that measure, a communication was made to the commissioner for carrying it into effect, which he laid before the assembled chiefs immediately after he had concluded his remarks on the method in which the assent was to be given to the treaty.

"One of the chiefs, in behalf of those in the opposition, then rose and stated that they did not desire to avail themselves of the offer which had just been made by the pre-emptive owners; and observed that they wished the council might be kept open after those had signed the treaty who were present, as they desired to execute, in the presence of the commissioner of the United States and superintendent of Massachusetts, a written declaration of their dissent. The commissioner replied that he was not authorized to authenticate any document other than such as he had been specially directed to submit for their consideration, and therefore could not with propriety keep the council open for the purpose which had been stated.

"I was then reminded by another chief of the opposition party that I had informed them on the opening of the council, although I was not instructed to advise them either to remain where they were, or to emigrate to the Indian territory in the west, I had been sent there by the governor of Massachusetts to see that impartial justice was done to the Seneca nation of Indians; and that I had observed, on another occasion, I should not be deterred by the flash of the tomahawk or the crack of the rifle in the independent and honest discharge of my duty; and as I should be a witness to such of the chiefs as were in favor of emigration, who signed the treaty, 'MY HEAD WOULD NOT BE STRAIGHT' unless I also verified their proceedings; and then asked me if I would remain for that purpose.

"I answered, that I considered it my duty to comply with all proper requests from any portion of the Seneca Indians, so far as it was in my power to do so; that I should, with great pleasure, remain and witness the signatures to the declaration which it was proposed to execute after the commissioner of the United States retired from the council house.

"As many of the emigration chiefs were absent, only sixteen names were affixed to the treaty, in council, on the 28th ult.; and immediately after the adjournment the written declaration of the chiefs opposed to emigration was produced and signed in my presence."

Here we find that our commissioner refused to receive the list of the names of the dissenting chiefs, or what they called their protest, which was tendered him *in open council.* But General Dearborn, who is a military man—a man of mettle—who is not, as he informs us, to be "deterred from a faithful discharge of his duty by the flash of the tomahawk or the crack of the rifle," did receive and witness this dissent, or protest; and he forwarded it, according to the request of the Senecas, to Governor Everett. This protest contained the names of *sixty chiefs*, out of eighty-one, and is to be found in our printed document, at page 174. Here ends my review of the reports of Messrs. Gillet and Dearborn upon their first embassy. They

had another, which I will briefly dispose of; but, before doing so, it will be necessary to notice the official action of the head of the Indian bureau upon our commissioner's report. Let us now see how Mr. Crawford viewed this matter. Mr. Crawford says, in his letter to the Secretary of War of the 29th of October, 1838:—

"The only difficulty in the way of regarding the acts of the Indians as meeting the resolution of the Senate, that appears to me insuperable, concerns the assent reported to have been given by the Senecas. There are in this band seventy-eight chiefs. The assent of sixteen was obtained in council, of thirteen at the room of the commissioner, and of two others at their own quarters, making thirty-one; and since the arrival of Mr. Gillet in Washington, he has received the written assents of five more, properly authenticated; making an aggregate of thirty-six. The commissioner reports that not more than sixty-one chiefs attended the council at one time, and that thirty-six is more than one-half the number of chiefs that probably gave their attendance in council at all the meetings: two of the chiefs, it is said, hold a questionable authority, and two have removed from the country. Is this an assent of the tribe by the chiefs? The authority of the band resides in *all* the chiefs; and although uniformity in their views can scarcely be expected, at least a majority of the chiefs, not of those who appeared in council, but of all upon the reservation, it strikes me, should consent, to constitute the 'free and voluntary assent' *of the tribe.* Deduct the two who, it is represented, exercise a doubtful authority, and the two who have removed, and seventy-four chiefs of the Senecas remain, of whom, including the five whose assents were not attached to the modified treaty, but transmitted by mail, and we have thirty-six only. The last five, in my opinion, cannot be reckoned; but I have not noted more particularly the defective manner of their assenting, because it was, in the view taken, unimportant. Perhaps, too, it *was intended by the Senate that they should consent in council.* Mr. Gillet states in his report that a printed copy of the treaty and amendments was handed him, to which were affixed the signatures of thirty-five chiefs and one hundred and seventeen warriors, declaring their assent thereto. *This writing is dated six days before the assent in council was obtained, preceded, as I presume, by the full explanations of the commissioner; and although witnessed by James Stryker, United States sub-agent, and H. P. Wilcox, and no doubt fairly obtained,* (for it embraces the names affixed to the assent prepared by Mr. Gillet, and four additional ones,) *can scarcely, it seems to me, be considered as within the intent of the Senate.* If, however, you should think differently, the four chiefs added to the whole number first mentioned would give forty assenting chiefs out of seventy-eight. Even if the legal right was as clear the one way as it appears to be the other, would it be expedient to act upon it? The Senecas are evidently divided into two very nearly equal parties—the one for, and the other against the treaty—splitting on the subject of emigration, which is much to be regretted. Their own true interest and the liberal views of the government they do not comprehend; and however desirable it is that they should leave New York, which would be the probable but *not the necessary consequence of the ratification of the treaty,* one-half of them appear to be otherwise determined for the present. The report and accompanying papers show that much excitement prevails among them on the subject, and make it too certain that but for bad advice they would accede to the proposed terms, which perhaps a renewed application might find them willing to do.

For this last purpose the door is still open, as the council was adjourned to the 15th of November next."

This letter of Mr. Crawford construes, and *properly construes*, the Senate's resolution of the 11th June, 1838. Having submitted his letter to the Secretary of War, containing his opinions, &c., the Secretary advised upon the subject, and gave Mr. Crawford instructions for *future operations*, and these instructions Mr. Crawford embodied in his letter to Mr. Gillet of the 30th of October, 1838, and which is as follows, viz:

"SIR: Your report and the treaty with the New York Indians, assented to as amended in the Senate of the United States, have been submitted to the Secretary of War. He is of opinion that the consent of a majority of *all* the Seneca chiefs must be obtained; but that, as you have heretofore met the requirement of the Senate, by full explanations to them in council, you may proceed to the Seneca reservations, *and there obtain the assent of such Indians as have not heretofore given it.*

"You are, accordingly, authorized and requested, at your earliest convenience, to proceed to the Seneca reservation in New York, and to carry out the above views. Your service among the people qualifies you fully for the discharge of this duty, and gives assurance of its fair, honest, and capable performance.

"Very respectfully, your most obedient servant,

"T. HARTLEY CRAWFORD.

"Hon. R. H. GILLET, *now at Washington.*"

Here we have, sir, what I consider a false step in this negotiation, which was not warranted by the resolution of the 11th of June, 1838, nor sanctioned by usage or sound policy, in making treaties with any nation or Indian tribe whatever. Here, sir, is the red book, which contains all of our Indian treaties from the earliest period to the present day, and I boldly challenge any Senator to show me in it a single treaty ever made by us with an Indian tribe, which was not made with them *in council*, or else by delegates duly authorized by the council to make such treaty. Sir, the McIntosh treaty, which was made at the Indian Spring, in Georgia, forms no exception to the principle I have here laid down. That treaty purported to have been made *in council*, and to have been assented by a majority of the chiefs, and to have been agreeable to a majority of the Creeks. These important, and leading, and controlling facts were *vouched for* and *asserted* by our commissioner, on that occasion, in his report. Relying upon the truth of that statement, the Senate *ratified that treaty;* and what followed? McIntosh was murdered, and his followers were driven, for refuge and safety, out of the Creek nation into the white settlements. President Adams refused to carry that treaty into effect; and, at the following session of Congress, laid the *facts* of that treaty before the Senate; and what did the Senate do with it? The Senate investigated it, and, finding it had been made by a *minority* of the chiefs, and by bribery and unfair means, the Senate declared it *null and void;* and yet, sir, with a knowledge of the proceedings of the Senate upon that treaty, we find, by Mr. Crawford's instructions to Mr. Gillet, which I have just read, that our commissioner was authorized to proceed, for a third time, to the Seneca reservation, and there obtain "the assent of such Indians as had not heretofore given it."

This mode of hunting up Indians, and of getting their signatures *out of council*, in the woods, or anywhere, wheresoever they may be found, seems

not to have been very cordially approved of by General Dearborn; and upon ascertaining this fact, we find Mr. Crawford addressing another letter to Mr. Gillet, of the 19th of November, 1838, in which he says: "The instructions given you when here, it seems to me, *would justify your assembling of the Senecas*, should *you deem it necessary*. But to remove any doubt, I am directed by the Secretary of War to say *that if General Dearborn desires it*, you are authorized, *at your discretion*, to hold such council."

Here we find it a *matter of doubt* whether Mr. Gillet's instructions would authorize him to convene a council, and it is stated that *he is not to convene the council* unless General Dearborn *should desire it*, and not even then unless *at his discretion*. And he never did convene the council, although it will be remembered that, on the 20th of October previous, the commissioner had not closed the council which he was then holding, but had publicly adjourned it to the 15th of November. This public pledge, which we find *studiously violated*, seems to have given the parties concerned in it no sort of uneasiness, or to have needed any sort of apology. This violation of a public pledge by a duly authorized commissioner is justified, though not avowed, on the ground, I suppose, that we are not bound, according to modern ethics, to keep faith with heretics or infidels; and we are called upon, as the high priests of the United States, on the alleged but fallacious pretext of *expediency*, to endorse this code of morality.

Mr. Gillet says, in his report upon this mission, that "*he visited such places on the reservations* as he was desired to by any of the chiefs. Eight of the signatures were received at *his room in Buffalo*, one at his former lodgings at Buffalo creek, and one at the residence of the sub-agent." These ten, added to the thirty-one before received, make forty-one altogether, which is a majority of one, and then he insists that the treaty had been assented to: if not according to the resolution of the Senate, it was assented to according to the instructions of the War Department.

General Dearborn's report in the main varies but little from that of Mr. Gillet. He states, however, that he thought there ought to have been a council, but seems to have acquiesced in the other mode, as Mr. Gillet showed him the instructions he had received of Mr. Crawford of the 13th of October, by which he considered himself *prohibited from calling a council*. It is *denied* that Mr. Gillet said any thing to General Dearborn about his *subsequent instructions* of the 12th of November, 1838. As Mr. Gillet no doubt intended to avail himself of the *discretion these instructions* gave him, and finding the pliant New Englander acquiescing in his views of expediency, he never did inform General Dearborn of those instructions. General Dearborn, in his letter to Governor Everett of the 19th January last, says he *never saw or heard of the instructions of Mr. Crawford to Mr. Gillet of the 12th of November*, 1838; and yet the credulous General, after he had found out the existence of such *secret instructions* some time after the negotiation was ended, and after the whole proceedings were published, seems to take no offence at the circumstance, but states that he believes (a belief, to say the least of it, which shows on his part a marvellous credulity) that his not seeing those instructions was *undesigned* and *accidental*.

Mr. Crawford, in his letter to the Secretary of War of the 15th of January, 1839, upon the subject of the last reports of Mr. Gillet and General Dearborn, says:

"That ten additional assents had been obtained, but that two of which

are not manifested by the *party appearing* and *signing in person.* The reasons given for their not appearing and signing in person the treaty as modified are, that *one of them was absent*, and the other prevented from doing so by the acts of chiefs opposed to the treaty."

These are important details, and are not to be found in the printed report of Mr. Gillet, before whom these transactions occurred, and which probably accounts for the fact that several of the chiefs, whose signatures appear to the treaty, deny ever signing or assenting to the treaty, or of *authorizing any other person to do so for them.* I say important, because it will be observed that those two signing by attorney constitute what is claimed as a majority of the chiefs. Mr. Crawford concludes his letter by submitting the treaty, signed in the manner we have seen, by forty-one chiefs, for the consideration of the Secretary of War.

The Secretary of War reports upon this treaty to the President, of the 19th January, 1839, and recommends the President to submit it to the Senate. Here let me remark that the President is authorized by the terms of the resolution of the Senate of the 11th of June, 1838, to promulge this treaty without again consulting the Senate about it, *whenever* he is satisfied that it has been assented to according to the true meaning and intent of the resolution of the 11th of June, 1838. The President deemed it advisable, for reasons set forth in his message to the Senate of the 21st January, 1839, not to promulge this treaty, but he submitted it again for our advice. By doing so he has shown that our confidence had not been misplaced. He has shown most abundantly that though he appreciated the wishes and interests of New York and of Massachusetts, he was at the same time not disposed to gratify even those two powerful States at the expense and sacrifice of the just claims of even a small fragment of wretched and miserable Indians. He had the power to speak but a single word, and close up this controversy forever. But, sir, he wisely preferred adhering to the immutable and eternal principles of justice, to the pecuniary gains of Massachusetts or New York. He preferred preserving, with scrupulous fidelity, our national character, and honor and honesty, to the contemptible spoils and laurels which might be gathered in triumphing, by forced and unlawful means, over a handful of ignorant savages. Sir, he resisted importunities and refused to promulge the treaty, and sent it back to the Senate, to his impartial constitutional advisers, for their consideration. And how did the Senate dispose of it? Let the report of the Committee on Indian Affairs of the last session, and the resolution of the 2d of March last, founded upon that report, answer the question. What is the resolution of the 2d of March?

"*Resolved*, That whenever the President of the United States shall be satisfied that the assent of the Seneca tribe of Indians has been given to the amended treaty of June 11, 1838, with the New York Indians, according to the true intent and meaning of the resolution of the Senate of the 11th June, 1838, the Senate recommend that the President make proclamation of said treaty, and carry the same into effect."

Sir, we adopted that resolution for the purpose of giving the parties interested another opportunity, which they desired, to get the treaty assented to by the Senecas. This was done on the 2d of March, the day before we adjourned the last Congress.

On the 7th of that month, four days after the adjournment, and before

the treaty we had thus disposed of had left the Secretary's office, so far as I know, but certainly before it had left the War Department, we find Nath. T. Strong, a Seneca chief, in a letter to the President, misrepresenting the views and proceedings of the Senate upon that treaty, and urging him to ratify it. On the 9th of March we find Mr. Allen, the agent of the land company, of whom I have before spoken, in his letter to the President urging him to ratify the treaty, which the Senate had refused to do but seven days before. He furnishes the President the same list of chiefs we had had before us, which he contended was a majority of the Senecas.

On the 11th we find Mr. Wilcox, another prominent individual throughout the whole of this long protracted negotiation, in his letter to the President, urging him to ratify the treaty, and endorsing the truth of Allen's statement relative to the number of chiefs.

On the 11th we find Mr. Stryker, the sub agent, in his letter to the President, furnishing a list of the chiefs with the same view.

On the 4th of April we have a letter to the President from the Ogden Land Company, with the same view: and on the 6th of March, two days after we adjourned, we find that two of our brother Senators, Messrs. Tallmadge and Norvell, furnished to this same Mr. Allen, for the purpose of showing (what they no doubt believed, and for which I attach no blame) that the requirements of the Senate, by the resolution of the 11th of June, 1838, that the treaty should be assented to in open council, were dispensed with by the resolution of the 2d of March. I can only say that that was not my understanding of the resolution of the 2d of March. What is that resolution? The resolution of the 2d of March authorized the President to make proclamation of the Seneca treaty *whenever* he should be satisfied that the amended treaty had been assented to *according to the true intent and meaning of the resolution of the 11th June*, 1838. And how was that resolution of the 11th of June construed? Let the report of the Committee on Indian Affairs answer. And how was it construed by the *commissioner* and by the War Department, until it was found *expedient for them to give it a different construction?* Let the history of this negotiation, which the published documents fully furnish, answer the question. How was it construed by the President? Let his message of the 14th of January last answer the question.

Construing these resolutions as we did, the President refused to promulge the treaty, notwithstanding all the efforts made to induce him to do so. He despatched the Secretary of War last August to Buffalo, for the purpose of submitting the amended treaty to the Senecas, containing the views of the Senate, as reaffirmed by the resolution of the 2d March. He convened a council for this purpose; and what was the result? The Secretary has given us nothing but the speeches of himself, of General Dearborn, of the agent, and of the Indian chiefs, for and against the treaty. But the President, in the message of the 14th of January last, transmitting this treaty again, and for the third time, to the Senate for *ratification*, has given us the result of the Secretary's negotiation in *three italicised* lines, (multum in parvo;) which is, that "*no advance towards obtaining the assent of the Senecas to the amended treaty, in council, was made, nor can a majority of them in council be now obtained.*"

I have now, sir, endeavored to give the Senate a full and impartial, though I fear a tedious history of what I consider the important points of

this whole matter from the beginning up to this day; and in doing so I have based my statements upon the official published documents emanating from the public agents and officers of the government. I have not relied (because such testimony, however unjustly in some instances, might be cavilled at) upon Indian statements and Indian affidavits. Nor have I relied for any thing I have said upon the written statements of the Quakers, who are viewed by some gentlemen as officious intruders and intermeddlers in this affair; not because I do not consider their statements as entitled to the fullest belief, but because I have not found such reliance necessary.

Now, sir, having wholly failed, after two years of expense and trouble, of trials and tribulations, backed by the potent influence of New York and Massachusetts, and of the *active members* of the land company and their *rewarded* chiefs, to obtain, in open council or otherwise, the voluntary assent of a majority of the Seneca chiefs to the very liberal treaty we are now considering—a treaty by which we agree to give to the Senecas, for their part of the Green Bay lands, their portion of the $400,000 in cash, and their portion of the 1,800,000 acres of land west of the State of Missouri—having failed in all this, what shall we do? Shall we throw our treaty in the fire and *take by force* what we have been unable to accomplish by negotiation? It is a grave question for the Senate to decide. If history is to be credited, it is not an unusual occurrence for the weak and helpless to be robbed and preyed upon by powerful civilized communities *professing* Christianity. Sir, when Cæsar demanded the public treasure of Rome, he scorned the production of any other warrant than his sword. And if we *really* want the lands of the Senecas for our masters—for this huge and overgrown land company—we have but to use a similar argument, and no doubt it will be attended with similar success. Sir, if we decide upon such a step, let us accomplish our purpose in the bold spirit of the valiant highwayman, and not by the trick and trap, the shuffling and legerdemain, of a spurious treaty. If we have determined to give up our honesty, I hope we shall at least preserve our reputation for courage.

By a census of the Senecas which has been furnished us, it appears that not only a majority of the chiefs, but also about fourteen-fifteenths of the whole population, are against the treaty and opposed to emigration. This proportion we find existing now among them after all the influences I have before alluded to have been brought to bear upon them for upwards of two years: and, sir, what is more, after endeavoring, in addition to all this, to *starve them into submission* by withholding from them, until late in the summer of 1838, their annuity of 1837. I will read to the Senate for their information the letter of Mr. Harris of the 14th of March, 1838:

"WAR DEPARTMENT,
"*Office of Indian Affairs, March* 14, 1838.

"SIR: In regard to the inquiries contained in the honorable Mr. Marvin's letter of the 2d instant, referred by you to this office for a report, I beg leave to observe that it is known here that the Seneca annuity for 1837 has not been paid. Remittances were made for the purpose in June last; but owing to various causes, among which were the absence of an exploring party to the west, *the pendency of a negotiation with the New York Indians*, and the engagement of the disbursing agent in the suppression of the hostile movements on the Canada border, the payment has not been made. *The*

sub-agent, now here, informs me that it is not desirable it should be made until the return of the delegation now in this city.

"Very respectfully, your most obedient servant,

"C. A. HARRIS, *Commissioner.*

"Hon. J. R. POINSETT,

"*Secretary of War.*"

Sir, the Indians now are, as they have been from the beginning, agitated, excited, and unhappy about this treaty; and I now hope that on this day the Senate will quiet their agonizing apprehensions by finally disposing of it—by ratifying or rejecting it.

I had thought the treaty an advantageous one to the Indians. I think so still. But I am not disposed to force upon them a measure, though calculated, as I believe, to redound to their advantage, which they *literally abhor.* Whenever they may manifest a disposition to go westward, I for one will be willing to give them a home. But, in any future treaty we may have with them, should this one be rejected, I hope we shall have nothing to do with the Massachusetts land company. Let this company extinguish their right of occupancy themselves. And I here call upon those Senators who are so opposed to monopolizing companies and corporations—so averse to paying State, or company, or corporation debts, with public money or public lands, for objects of State or company purposes *exclusively*—to stand by me on this trying occasion, and prevent such a conversion of the public treasure to such unworthy purposes—to local purposes, in which we have not a shadow of interest.

We have had before us a great mass of testimony (*ex parte* always) upon both sides, criminating and recriminating each other. We have looked over it all; and we of the committee congratulate ourselves upon being able to make up our minds upon the merits of this treaty from the fullness of our official documents, without relying in any great degree upon this *ex parte* testimony.

I conclude, Mr. President, by expressing the hope that the Senate will adopt the resolution reported by the Committee on Indian Affairs, which is a resolution to reject the treaty.

D.

Resolution by the Senate—Treaty with the New York Indians—Protest of Tonawanda chiefs, &c.

Resolved, further, (two-thirds of the Senators present concurring,) That the Senate advise and consent to the ratification of the supplemental article to the treaty concluded at Buffalo creek, in the State of New York, January 15, 1838, which was made at the council house of St. Regis on the 13th day of February, 1838: *Provided,* The chiefs and headmen of the St. Regis Indians residing in New York will, in general council, accept of and adopt the aforesaid treaty, as modified by the preceding resolution of ratification.

Provided always, and be it further resolved, (two-thirds of the Senate present concurring.) That the treaty shall have no force or effect whatever, as it relates to any of said tribes, nations, or bands of New York Indians,

nor shall it be understood that the Senate have assented to any of the contracts connected with it until the same, with the amendments herein proposed, is submitted, and fully and fairly explained, by a commissioner of the United States, to each of said tribes or bands separately assembled in council, and they have given their free and voluntary assent thereto. And if one or more of said tribes or bands, when consulted as aforesaid, shall freely assent to said treaty as amended, and to their contract connected therewith, it shall be binding and obligatory upon those so assenting, although other or others of said bands or tribes may not give their assent, and thereby cease to be parties thereto: *Provided, further*, That if any portion or part of said Indians do not emigrate, the President shall retain a proper proportion of said sum of four hundred thousand dollars, and shall also deduct from the quantity of land allowed west of the Mississippi such number of acres as will leave to each emigrant three hundred and twenty acres only.

Attest: ASBURY DICKINS, *Secretary.*

TREATY WITH THE NEW YORK INDIANS, AS AMENDED BY THE SENATE, AND ASSENTED TO BY THE SEVERAL TRIBES, 1838.

Articles of a treaty made and concluded at Buffalo creek, in the State of New York, the fifteenth day of January, in the year of our Lord one thousand eight hundred and thirty eight, by Ransom H. Gillet, a commissioner on the part of the United States, and the chiefs, headmen, and warriors of the several tribes of New York Indians assembled in council, witnesseth:

Whereas the Six Nations of New York Indians, not long after the close of the war of the Revolution, became convinced, from the rapid increase of the white settlements around, that the time was not far distant when their true interest must lead them to seek a new home among their red brethren in the west: and whereas this subject was agitated in a general council of the Six Nations as early as one thousand eight hundred and ten, and resulted in sending a memorial to the President of the United States, inquiring whether the government would consent to their leaving their habitations, and their removing into the neighborhood of their western brethren; and if they could procure a home there, by gift or purchase, whether the government would acknowledge their title to the lands so obtained in the same manner it had acknowledged it in those from whom they might receive it; and, further, whether the existing treaties would, in such a case, remain in full force, and their annuities be paid as heretofore: and whereas, with the approbation of the President of the United States, purchases were made by the New York Indians from the Menomonie and Winnebago Indians of certain lands at Green Bay, in the Territory of Wisconsin, and, after much difficulty and contention with those Indians concerning the extent of that purchase, the whole subject was finally settled by a treaty between the United States and the Menomonie Indians, concluded in February, one thousand eight hundred and thirty one, to which the New York Indians gave their assent on the seventeenth day of October, one thousand eight hundred and thirty-two: and whereas, by the

provisions of that treaty, five hundred thousand acres of land are secured to the New York Indians of the Six Nations, and the St. Regis tribe, as a future home, on condition that they all remove to the same within three years, or such reasonable time as the President should prescribe: and whereas the President is satisfied that various considerations have prevented those still residing in New York from removing to Green Bay, and, among other reasons, that many who were in favor of emigration preferred to remove at once to the Indian territory, which they were fully persuaded was the only permanent and peaceable home for all the Indians, and they therefore applied to the President to take their Green Bay lands, and provide them a new home among their brethren in the Indian territory: and whereas the President being anxious to promote the peace, prosperity, and happiness of his red children, and being determined to carry out the humane policy of the government in removing the Indians from the east to the west of the Mississippi, within the Indian territory, by bringing them to see and feel, by his justice and liberality, that it is their true policy and for their interest to do so without delay:

Therefore, taking into consideration the foregoing premises, the following articles of a treaty are entered into between the United States of America and the several tribes of the New York Indians, the names of whose chiefs, headmen, and warriors are hereto subscribed, and those who may hereafter give their assent to this treaty in writing within such time as the President shall appoint:

General provisions.

Article 1. The several tribes of New York Indians, the names of whose chiefs, headmen, warriors, and representatives are hereunto annexed, in consideration of the premises above recited, and the covenants hereinafter contained, to be performed on the part of the United States, hereby cede and relinquish to the United States all their right, title, and interest to the lands secured to them at Green Bay by the Menomonie treaty of one thousand eight hundred and thirty-one, excepting the following tract, on which a part of the New York Indians now reside: beginning at the southwesterly corner of the French grants at Green Bay, and running thence, southwardly, to a point on a line to be run from the Little Cocachin, parallel to a line of the French grants, and six miles from Fox river; from thence on said parallel line northwardly, six miles; from thence eastwardly, to a point on the northeast line of the Indian lands, and being at right angles to the same.

Art. 2. In consideration of the above cession and relinquishment on the part of the tribes of the New York Indians, and in order to manifest the deep interest of the United States in the future peace and prosperity of the New York Indians, the United States agree to set apart the following tract of country, situated directly west of the State of Missouri, as a permanent home for all the New York Indians now residing in the State of New York, or in Wisconsin, or elsewhere in the United States, who have no permanent homes; which said country is described as follows, to wit: beginning on the west line of the State of Missouri, at the northeast corner of the Cherokee tract, and running thence north along the west line of the State of Missouri, twenty-seven miles, to the southerly line of the Miami lands; thence west, so far as may be necessary, by running a line at right angles, and parallel to the west line aforesaid, to the Osage lands; and thence east-

erly, along the Osage and Cherokee lands, to the place of beginning, to include one million eight hundred and twenty-four thousand acres of land, being three hundred and twenty acres for each soul of said Indians, as their numbers are at present computed, to have and to hold the same in fee simple to the said tribes or nations of Indians, by patent from the President of the United States, issued in conformity with the provisions of the third section of the act entitled "An act to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the Mississippi," approved on the twenty-eighth day of May, eighteen hundred and thirty, with full power and authority in the said Indians to divide said lands among the different tribes, nations, or bands, in severalty, with the right to sell and convey to and from each other, under such laws and regulations as may be adopted by the respective tribes, acting by themselves or by a general council of the said New York Indians, acting for all the tribes collectively. It is understood and agreed that the above described country is intended as a future home for the following tribes, to wit: the Senecas, Onondagas, Cayugas, Tuscaroras, Oneidas, St. Regis. Stockbridges, Munsees, and Brothertowns, residing in the State of New York, and the same is to be divided equally among them, according to their respective numbers, as mentioned in a schedule hereto annexed.

Art. 3. It is further agreed that such of the tribes of the New York Indians as do not accept and agree to remove to the country set apart for their new homes within five years, or such other times as the President may from time to time appoint, shall forfeit all interest in the lands so set apart to the United States.

Art. 4. Perpetual peace and friendship shall exist between the United States and the New York Indians; and the United States hereby guaranty to protect and defend them in the peaceable possession and enjoyment of their new homes, and hereby secure to them in said country the right to establish their own form of government, appoint their own officers, and administer their own laws; subject, however, to the legislation of the Congress of the United States regulating trade and intercourse with the Indians. The lands secured to them by patent under this treaty shall never be included in any State or Territory of this Union. The said Indians shall also be entitled, in all respects, to the same political and civil rights and privileges that are granted and secured by the United States to any of the several tribes of emigrant Indians settled in the Indian territory.

Art. 5. The Oneidas are to have their lands in the Indian territory, in the tract set apart for the New York Indians, adjoining the Osage tract, and that hereinafter set apart for the Senecas; and the same shall be so laid off as to secure them a sufficient quantity of timber for their use. Those tribes whose lands are not specially designated to this treaty are to have such as shall be set apart by the President.

Art. 6. It is further agreed that the United States will pay to those who remove west, at their new homes, all such annuities as shall properly belong to them. The schedules hereunto annexed shall be deemed and taken as a part of this treaty.

Art. 7. It is expressly understood and agreed that this treaty must be approved by the President and ratified and confirmed by the Senate of the United States before it shall be binding upon the parties to it. It is further expressly understood and agreed that the rejection by the President and

Senate of the provisions thereof applicable to one tribe or distinct branch of a tribe shall not be construed to invalidate as to others; but as to them it shall be binding, and remain in full force and effect.

Art. 8. It is stipulated and agreed that the accounts of the commissioner and expenses incurred by him in holding a council with the New York Indians, and concluding treaties at Green Bay and Duck creek, in Wisconsin, and in the State of New York, in 1836, and those for the exploring party of the New York Indians in 1837, and also the expenses of the present treaty, shall be allowed and settled according to former precedents.

Special provisions for the St. Regis.

Art. 9. It is agreed with the American party of the St. Regis Indians that the United States will pay to the said tribe, on their removal west, or at such time as the President shall appoint, the sum of five thousand dollars, as a remuneration for moneys laid out by the said tribe, and for services rendered by their chiefs and agents in securing the title to the Green Bay land, and in removal to the same, the same to be apportioned out to the several claimants by the chiefs of the said party and a United States commissioner, as may be deemed by them equitable and just. It is further agreed that the following reservation of land shall be made to the Rev. Eleazer Williams, of said tribe, which he claims in his own right and in that of his wife, which he is to hold in fee simple, by patent from the President, with full power and authority to sell and dispose of the same, to wit: beginning at a point in the west bank of Fox river, thirteen chains above the old mill-dam, at the rapids of the Little Cocaclin; thence north fifty-two degrees and thirty minutes west, two hundred and forty chains; thence north thirty-seven degrees and thirty minutes east two hundred chains; thence south fifty-two degrees and thirty minutes east, two hundred and forty chains, to the bank of Fox river; thence up along the bank of Fox river to the place of beginning.

Special provisions for the Senecas.

Art. 10. It is agreed with the Senecas that they shall have for themselves and their friends, the Cayugas and Onondagas, residing among them, the easterly part of the tract set apart for the New York Indians, and to extend so far west as to include one half section (three hundred and twenty acres) of land for each soul of the Senecas, Cayugas, and Onondagas, residing among them; and if, on removing west, they find there is not sufficient timber on this tract for their use, then the President shall add thereto timber land sufficient for their accommodation, and they agree to remove from the State of New York to their new homes within five years, and to continue to reside there. And whereas, at the making of this treaty, Thomas L. Ogden and Joseph Fellows, the assignees of the State of Massachusetts, have purchased of the Seneca nation of Indians, in the presence and with the approbation of the United States commissioner, appointed by the United States to hold said treaty or convention, all the right, title, interest, and claim of the said Seneca nation to certain lands, by a deed of conveyance, a duplicate of which is hereunto annexed; and whereas the consideration money mentioned in said deed, amounting to two hundred and two thousand dollars, belongs to the Seneca nation, and the said nation

agrees that the said sum of money shall be paid to the United States, and the United States agree to receive the same, to be disposed of as follows: the sum of one hundred thousand dollars is to be invested by the President of the United States in safe stocks for their use, the income of which is to be paid to them at their new homes annually, and the balance, being the sum of one hundred and two thousand dollars, is to be paid to the owners of the improvements on the lands so deeded, according to an appraisement of said improvements, and a distribution and award of said sum of money, among the owners of said improvements, to be made by appraisers hereafter to be appointed by the Seneca nation, in the presence of a United States commissioner, hereafter to be appointed, to be paid by the United States to the individuals who are entitled to the same, according to said appraisal and award, on their severally relinquishing their respective possessions to the said Ogden and Fellows.

Special provisions for the Cayugas.

Art. 11. The United States will set apart for the Cayugas, on their removing to their new homes at the west, two thousand dollars, and will invest the same in some safe stocks, the income of which shall be paid them annually at their new homes. The United States further agree to pay to the said nation, on their removal west, two thousand five hundred dollars, to be disposed of as the chiefs shall deem just and equitable.

Special provisions for the Onondagas residing on the Seneca reservations.

Art. 12. The United States agree to set apart for the Onondagas, residing on the Seneca reservations, two thousand five hundred dollars, on their removing west, and to invest the same in safe stocks, the income of which shall be paid to them annually at their new homes. And the United States further agree to pay to the said Onondagas, on their removal to their new homes in the west, two thousand dollars, to be disposed of as the chiefs shall deem equitable and just.

Special provisions for the Oneidas residing in the State of New York.

Art. 13. The United States will pay the sum of four thousand dollars, to be paid to Baptiste Powlis and the chiefs of the first Christian party residing at Oneida; and the sum of two thousand dollars shall be paid to William Day and the chiefs of the Orchard party residing there, for expenses incurred and services rendered in securing the Green Bay country and the settlement of a portion thereof; and they hereby agree to remove to their new homes, in the Indian territory, as soon as they can make satisfactory arrangements with the governor of the State of New York for the purchase of their lands at Oneida.

Special provisions for the Tuscaroras.

Art. 14. The Tuscarora nation agree to accept the country set apart for them in the Indian territory, and to remove there within five years, and continue to reside there. It is further agreed that the Tuscaroras shall have their lands in the Indian country at the forks of the Neosho river;

which shall be so laid off as to secure a sufficient quantity of timber for the accommodation of the nation. But if, on examination, they are not satisfied with this location, they are to have their lands at such place as the President of the United States shall designate. The United States will pay to the Tuscarora nation, on their settling at the west, three thousand dollars, to be disposed of as the chiefs shall deem most equitable and just. Whereas the said nation owns, in fee simple, five thousand acres of land, lying in Niagara county, in the State of New York, which was conveyed to the nation by Henry Dearborn, and they wish to sell and convey the same before they remove west: now, therefore, in order to have the same done in a legal and proper way, they hereby convey the same to the United States, and to be held in trust for them; and they authorize the President to sell and convey the same; and the money which shall be received for the said lands, exclusive of the improvements, the President shall invest in safe stocks for their benefit, the income from which shall be paid to the nation at their new homes, annually; and the money which shall be received for improvements on said lands shall be paid to the owners of the improvements when the lands are sold. The President shall cause the said lands to be surveyed, and the improvements shall be appraised by such persons as the nation shall appoint; and said lands shall also be appraised and shall not be sold at a less price than the appraisal without the consent of James Cusick, William Mountpleasant, and William Chew, or the survivor or survivors of them; and the expenses incurred by the United States in relation to this trust are to be deducted from the moneys received before investment.

And whereas, at the making of this treaty, Thomas L. Ogden and Joseph Fellows, the assignees of the State of Massachusetts, have purchased of the Tuscarora nation of Indians, in the presence and with the approbation of the commissioner appointed on the part of the United States to hold said treaty or convention, all the right, title, interest, and claim of the Tuscarora nation to certain lands, by a deed of conveyance, a duplicate of which is hereto annexed; and whereas the consideration money for said lands has been secured to the said nation to their satisfaction by Thomas L. Ogden and Joseph Fellows: therefore, the United States hereby assent to the said sale and conveyance, and sanction the same.

Art. 15. The United States hereby agree that they will appropriate the sum of four hundred thousand dollars, to be applied from time to time, under the direction of the President of the United States, in such proportions as may be most for the interest of the said Indians, parties to this treaty, for the following purposes, to wit: to aid them in removing to their homes, and supporting themselves the first year after their removal; to encourage and assist them in education, and in being taught to cultivate their lands; in erecting mills and other necessary houses; in purchasing domestic animals and farming utensils, and acquiring a knowledge of the mechanic arts.

In testimony whereof, the commissioner and the chiefs, headmen, and people, whose names are hereto annexed, being duly authorized, have hereunto set their hands and fixed their respective seals at the time and place above mentioned.

R. H. GILLET, [L. S.]
Commissioner.

Senecas.

Dao-nepho-gah, or Little Johnson,	his x mark	[L. S.]
Da-ga-o geas, or Daniel Twoguns,		[L. S.]
Gee-odowa-neh, or Captain Pollard,	his x mark	[L. S.]
Joh-nes-ha-dih, or James Stevenson,	his x mark	[L. S.]
Hure-hau-stock, or Captain Strong,	his x mark	[L. S.]
So-ne-a-ge, or Captain Snow,	his x mark	[L. S.]
Hau-neh-hoy's-oh, or Blue Eyes,	his x mark	[L. S.]
Haw-naw-wah-es, or Levi Halftown,	his x mark	[L. S.]
Goat-hau-oh, or Billy Shanks,	his x mark	[L. S.]
Hau-sa-nea-nes, or White Seneca,	his x mark	[L. S.]
Howah-do-goh-deh, or George Bennet,	his x mark	[L. S.]
Hays-tah-jih, or Job Pierce,	his x mark	[L. S.]
Sho-nan-do-wah, or John Gordon,	his x mark	[L. S.]
Noh-sok-dah, or Jim Jonas,	his x mark	[L. S.]
Shaw-neh-dik, or William Johnson,	his x mark	[L. S.]
Gaw-neh-do-au-ok, or Reuben Pierce,	his x mark	[L. S.]
Shaw-go-nes-goh-shaw-oh, or Morris Halftown,	his x mark	[L. S.]
Shaw-go-za-sot-hoh, or Jacob Jimeson,	his x mark	[L. S.]
Gua-wa-no-oh, or George Big Deer,	his x mark	[L. S.]
Joh-que-ya-suse, or Samuel Gordon,		[L. S.]
Gua-ne-oh-doh, or Thompson S. Harris,		[L. S.]
Gau-geh-queh-doh, or George Jimeson,	his x mark	[L. S.]
Hon-non-de-uh, or Nathaniel T. Strong,		[L. S.]
Nuh-joh-gau-eh, or Tall Peter,	his x mark	[L. S.]
Sho-nauk-ga-nes, or Tommy Jimmy,	his x mark	[L. S.]
So-joh-gwa-us, or John Tall Chief,	his x mark	[L. S.]
Shau-gau-nes-es-tep, or George Fox,		[L. S.]
Go-na-daw-goyh, or Jabez Stevenson,		[L. S.]
Tit-ho-yuh, or William Jones,	his x mark	[L. S.]
Juneah-da-glence, or George White, by his agent, White Seneca,	his x mark	[L. S.]
Gau-nu-su-goh, or Walter Thompson, by his agent, Daniel Twoguns,	his x mark	[L. S.]
Dau-ga-se, or Long John,	his x mark	[L. S.]
Gua-sa-we-dah, or John Bark,	his x mark	[L. S.]
Gau-ni-dough, or George Lindsay,		[L. S.]
Ho-ma-ga-was, or Jacob Bennet,	his x mark	[L. S.]
On-di-heh-oh, or John Bennet,	his x mark	[L. S.]
Nish-ha-nea-nent, or Seneca White,	his x mark	[L. S.]
Ha-dya-no-doh, or Maris Pierce,		[L. S.]
Yoh-dih-doh, or David White,		[L. S.]
James Shongo,	his x mark	[L. S.]
Ka-non-da-gyh, or William Cass,	his x mark	[L. S.]
Ni-ge-jos-a, or Samuel Wilson,	his x mark	[L. S.]
Jo-on-da-goh, or John Seneca,	his x mark	[L. S.]

Tuscaroras.

Ka-nat-soyh, or Nicholas Cusick,	[L. S.]
Sacharissa, or William Chew,	[L. S.]

Kaw-we-ah-ka, or William Mountpleasant, his x mark [L. S]
Kaw-re-a-rock-ka, or John Fox, [L. S.]
Gee-me, or James Cusick, [L. S.]
Ju-hu-we-at-kak, or John Patterson, his x mark [L. S.]
O ta-quaw-naw-wa, or Samuel Jacobs, [L. S.]
Ka-noh-sa-ta, or James Anthony, his x mark [L. S.]
Gou-ro-quan, or Peter Elm, his x mark [L. S.]
Tu-nak-she-a-han, or Daniel Peter, his x mark [L. S]

Oneidas residing in the State of New York, for themselves and their parties.

Baptiste Powlis, his x mark [L. S.]
Jonathan Jordon, his x mark [L. S.]

Oneidas at Green Bay.

John Anthony, his x mark [L. S.]
Honjoit Smith, his x mark [L. S.]
Henry Jordon, his x mark [L. S]
Thomas King, his x mark [L. S.]

St. Regis.

Eleazer Williams, chief and agent, [L. S]

Oneidas residing on the Seneca reservation.

Hon-no-g-nea-doh, or Silversmith, for himself and in behalf of his nation, his x mark [L. S.]
Hoge-wayhtah, or William Jacket, his x mark [L. S]
Sah-hu-gae-ne, or Button George, his x mark [L. S]

Principal Onondaga warriors, in behalf of themselves and the Onondaga warriors.

Ka no qua-sa, or William John, his x mark [L. S.]
Dah-gu-o-a dah, or Noah Silversmith, his x mark [L. S]

Cayugas.

Skok-no-eh, or William King, his x mark [L. S.]
Geh-da-or-loh, or James Young, [L. S.]
Gay-on-wek, or Jack Wheelbarrow, his x mark [L. S]
D'yo-ya-tek, or Joseph Isaac, his x mark [L. S]
For themselves and in behalf of the nation.

Principal Cayuga warriors, in behalf of themselves and the Cayuga warriors.

Hah-oh-u, or John Crow, his x mark [L. S.]
Ho-na-e-geh-dah, or Snow Darkness, his x mark [L. S.]
Gone-ah-ga-u-do, or Jacob G. Seneca, [L. S.]

Di-i-en-use, or Ghastly Darkness,	his x mark	[L. S.]
Hon-ho-gah-dyok, or Thomas Crow,	his x mark	[L. S.]
Wau-wah-wa-na-onk, or Peter Wilson,		[L. S.]
So-en-dagh, or Jonathan White,	his x mark	[L. S.]
Sago-gan-e-on-gwus, or Harvey Rowe,	his x mark	[L. S.]
To-ga-ne-ah-doh, or David Crow,	his x mark	[L. S.]
So-win dah-neh, or George Wheeler,		[L. S.]
Do-goh-no-do-nis, or Simon Isaac,	his x mark	[L. S.]
He dai-sos, or Joseph Peter,	his x mark	[L. S.]
Sa-go-di-get-ka, or Jacob Jackson,	his x mark	[L. S.]

Witnesses:

James Stryker, *Sub-agent Six Nations New York Indians.*
Nathaniel T. Strong, *United States Interpreter, New York agency.*
H. B. Potter,
Orlando Allen,
H. P. Wilcox,
Charles H. Allen,
Horatio Jones,
Spencer H. Cone,
W. W. Jones,
J. F. Schermerhorn,
Josiah Trowbridge.

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Schedule A.

Census of the New York Indians, as taken in 1837.—Number residing on the Seneca reservations.

Senecas	2,309
Onondagas	194
Cayugas	130
	2,633
Onondagas, at Onondaga	300
Tuscaroras	273
St. Regis in New York	350
Oneidas at Green Bay	600
Oneidas in New York	620
Stockbridges	217
Munsees	132
Brothertowns	360

The above was made before the execution of the treaty.

R. H. GILLET, *Commissioner.*

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Schedule B.

The following is the disposition agreed to be made of the sum of three

thousand dollars, provided in this treaty for the Tuscaroras, by the chiefs, and assented to by the commissioner, and is to form a part of the treaty:

To Jonathan Printup, ninety-three dollars.
To William Chew, one hundred and fifteen dollars.
To John Patterson, forty-six dollars.
To William Mountpleasant, one hundred and seventy-one dollars.
To James Cusick, one hundred and twenty-five dollars.
To David Peter, fifty dollars.
The rest and residue thereof is to be paid to the nation.
The above was agreed to before the execution of the treaty.

R. H. GILLET, *Commissioner.*

SCHEDULE C.

Schedule applicable to the Onondagas and Cayugas residing on the Seneca reservations. It is agreed that the following disposition shall be made of the amount set apart to be divided by the chiefs of those nations in the preceding part of this treaty, any thing therein to the contrary notwithstanding:

To William King, one thousand five hundred dollars.
To Joseph Isaacs, seven hundred dollars.
To Jack Wheelbarrow, three hundred dollars.
To Silversmith, one thousand dollars.
To William Jacket, five hundred dollars.
To Button George, five hundred dollars.
The above was agreed to before the treaty was finally executed.

R. H. GILLET, *Commissioner.*

Protest of residents on the Tonawanda reservation.

We, the undersigned warriors and residents of the *Tonawanda reservation of Indians*, in the State of New York, most respectfully beg leave to *protest* and *remonstrate* against the sale and disposition of our land to those who claim to have the pre-emptive right to purchase the same, or to any other individual or individuals, or to the government, as it is and ever has been our deliberate resolve not to accept of the country offered to us by the government, neither to part with the lands now in our possession, and under control of the chiefs as our representatives.

Dated this 15th day of September, A. D. 1838.

George Moses,	x	John Hiram,	x
John Bigfire,	x	Daniel Carpenter,	x
Dennis Sky,	x	James Bigbag,	x
John Bigbag,	x	John Luke, jr.,	x
William Taylor,	x	John Griffin,	x
John Cooper,	x	John Farmer,	x
Amos George,	x	Isaac Doctor,	x
Abram George,	x	William Parker,	x
James George,	x	John Shanks,	x

David Printup,	x	Benjamin Jones,	x
John Fish,	x	Monroe Squire,	x
Robert Fish,	x	Stephen Bigbag,	x
Tommy Black,	x	William Lacy,	x
Sherwood Black,	x	George Clantor,	x
John Miller,	x	Thomas Clantor,	x
John Irvin,	x	Samuel Clantor,	x
Chauncy Abram,	x	Jabez Clantor,	x
George Powder Horn,	x	William Jones,	x
George Washington,	x	Jesse Moses,	x
John Blackchief,	x	William Hatch,	x
John Maki,	x	William Johnson,	x
Isaac Shanks,	x	William James,	x
James Rollin,	x	David Brooks,	x
Anthony Jones,	x	John Martin,	x
Peter Taylor,	x	John Jones,	x
Thomas Evans,	x	Billy Stewart,	x
Isaac Doxtator,	x	Kilisy Tiffany,	x
Simmons Spring,	x	Hirald,	x
Tommy Hiram,	x	John William	x
George Fish,	x	John Abram,	x
Henry Moses,	x	William Clute,	x
Woods Moses,	x	Thompson Coody,	x
John Bigfire,	x	William Snider,	x
Esquire Brooks,	x	Henry Ground,	x
Jemmy Brooks,	x	Henry Jackson,	x
Elon Sky,	x	Aitch Ground,	x
George Sky,	x	Tommy Hall,	x
Henry Johnson,	x	John Cone,	x
Ely Johnson,	x	Daniel Peter,	x
David William,	x	Black Chief Brother,	x
Levi Barker,	x	Nixon Thomas,	x
Jabez Ground,	x	Wilson Thomas,	x
William Cananta,	x	David Bigbag,	x
Small Peter,	x	Elias Jones,	x
Henry Jemison,	x	Reuben Jones,	x
Barber Jemison,	x	Tommy White,	x
William Jemison,	x	John Thomas,	x
William Snidor,	x	David Shanks,	x
Samuel Parker,	x	James John,	x
Joseph Taylor,	x	Ely Stone,	x
Tommy Hill,	x	Nicholson Parker,	x
John Hill,	x	George Taylor,	x
Isaac Hill,	x	Thomas Spring,	x
Lewis Cananta,	x	Thomas Snider,	x
Richard Cooper,	x	Billy Halfbreed,	x
Thompson Cananta,	x	Daniel Spring,	x
Abel Bigham,	x	William Moses,	x
Thomas Bigtree,	x	John Jones,	x
John Bigtree,	x	James John, jr.,	x
Joseph Fish,	x	William Fish,	x
John Beaver,	x	Daniel Fish,	x

James Fish, x James Johnson, x
Adam Blue Sky, x

SEPTEMBER 15, 1838.

I hereby certify that all persons whose names are attached to this paper did severally and personally make their marks in my presence.

THOMAS JEMISON, *Interpreter.*

E.

Proceedings of an Indian council held at the Buffalo Creek reservation, State of New York, fourth month, 1842.

The joint committees of the four Yearly Meetings of Friends of Genesee, New York, Philadelphia, and Baltimore, charged with the concern of these meetings for the welfare of the Indian natives, having, during the past year, applied themselves assiduously to the discharge of the duties devolved upon them, the following summary account of their proceedings is presented as matter of information, and as the best means of giving a correct view of the present state of the concern.

The ratification of "the amended treaty" by the Senate, and its proclamation by the President of the United States, after a full exposure of the objectionable means used to procure its execution, was not anticipated by the committee. It was painful to perceive that a strong and affecting appeal, in behalf of the helpless and oppressed, to the justice and humanity of the nation, should fail to produce its proper effect. The consummation of a scheme to drive an unoffending people from their comfortable homes into a wilderness beyond the State of Missouri involved the committee in increased difficulties, but did not extinguish a hope that, by a further illustration of the case of the suffering Seneca nation, and a renewed appeal to the authorities of our government, a reconsideration of the treaty might be obtained, and that justice would finally triumph over all opposition.

Under this hope, memorials were prepared and presented to the President and to both houses of Congress, and a work was published entitled "A further illustration of the case of the Seneca Indians in the State of New York." In this work the *injustice* of the treaty was fully exposed, and the reasons exhibited why, in the judgment of the committee, it ought to be annulled. The remonstrances offered on this occasion were favorably received, and we have no doubt that there was generally, in the different departments of the government, as now constituted, a disposition to remedy, as far as practicable, the evils of which we had complained. But the ratification of the amended treaty, by which (according to *the forms in such case prescribed*) it had become the law of the land, had vested in the alleged purchasers of the Indian reservations a *legal* right to them, which, it was said, could not be disturbed by any subsequent *legislation* in the case. This opinion, operating with other powerful causes, rendered all our endeavors to procure a revision of the treaty by the Senate unavailing.

While we were thus struggling against a current of unfavorable circumstances, the Indians, under a lively sense of the wrongs and injustice that had been practised upon them, had determined to resist, at least passively, every attempt to dispossess them of their cherished inheritance. Some of their chiefs, under a bitter sense of their injuries, had explicitly declared

that as the whole transaction was a gross fraud, as their *nation* had, as such, taken no part in the affair, except to protest openly against it, they would die on their land by the violence of their oppressors, rather than remove at their arbitrary mandate.

This determination on the part of the Senecas, if carried into effect, must have impelled the government either to permit the law to remain *a dead letter*, or to employ a military force to effect the expulsion of the Indians. The well known policy of the government to remove all the aboriginal race beyond the Mississippi forbids the idea that the treaty would be suffered to remain a lifeless form, whilst the expulsion of the Senecas at the point of the bayonet is a circumstance which could not be contemplated without horror, and would be deprecated by every friend of the Indians and of our country. Even to those who were to be benefited by the execution of the treaty, such a result must have presented painful and discouraging prospects. It would probably divide the citizens living in the vicinity of the Indian lands into parties, as their interests on the one hand, and their feelings on the other, might sway their judgment; and angry contentions and lasting animosities would be the consequence. This struggle might be indefinitely protracted, during which the Indians, agitated by contending passions, disunited among themselves, unsettled and disturbed, would be unfitted for the pursuit of their best interests, and irreparable injury, both to their habits and morals, might and probably would be the result.

With these views, the committee became anxiously concerned for the peace and welfare of the Indians and of our country, and were very solicitous that some means might be discovered by which such disastrous consequences would be avoided. At the same time they felt the deep importance of preventing a forcible removal of the natives to a country ill suited to their present state, and of preserving them in the peaceable enjoyment of a home on lands descended to them from their forefathers. *Under this concern*, through the benevolent mediation of the present Secretary of War, a proposition for a compromise with the Ogden Land Company was made. By his kind and efficient aid all difficulties between the parties were adjusted, and a plan was finally agreed upon which will be developed in the ensuing pages.

By the proposed arrangement, this remnant of the Seneca nation, consisting now of about 2,500 individuals, will have more than 52,000 acres, principally of rich fertile land, giving to each family upwards of 100 acres—a quantity amply sufficient for every necessary purpose. The Indians will be more concentrated, and consequently more favorably situated for mental and moral improvement, as well as for the support of schools and other institutions for the advancement of science and the formation of habits essential to a state of civilization, than they have heretofore been. In this concentrated state they will be accessible to their friends, and more open to the kindly influences of those who may believe it right to devote themselves to the melioration of their condition.

As soon after the arrangement of the supplemental treaty was effected, and the season and other circumstances would permit, a delegation from the four yearly meetings of Genesee, New York, Philadelphia, and Baltimore, proceeded to Buffalo, and, according to a previous arrangement, met the chiefs in council on the 9th of 4th month, 1842. The following narrative of their proceedings will give a clear idea of the transactions which took place on the occasion:

Notes taken at an Indian Council held at Buffalo Creek reservation, the 4th month 9th, 1842, for the purpose of laying before the Senecas the supplemental treaty that had been agreed upon for the reconveyance to them of a portion of their lands in the State of New York.

Present—the chiefs and headmen of the Seneca nation, and the delegation from the joint committee on Indian affairs of the four yearly meetings of Baltimore, Philadelphia, New York, and Genesee.

Maris B. Pierce was chosen interpreter.

Griffith M. Cooper opened the council by the following remarks:

Brothers: We have been favored by the help of the Great Spirit to meet you in council on the present occasion. We are glad to mingle with you, and to find that you and ourselves are here in the enjoyment of good health. For this, and every other blessing, we should be thankful to the Author of our existence.

The subject upon which we have assembled is one of vast importance to you; therefore we desire your ears may be opened to hear and to understand. The friends that you now see before you have been deputed, by the four yearly meetings of Baltimore, Philadelphia, New York, and Genesee, to meet you here this day in council. If you are ready to listen to them, they are prepared to open their business before you, and to state to you the things that have been committed to their charge.

The communication they are about to make to you is the voice of the four yearly meetings I have alluded to. If you have any preparatory remarks to offer, we will listen to you.

To this, Israel Jemison replied as follows:

Brothers and Friends: You have this day again met us and our people in council. We are happy to see you; we rejoice that you are well. It was the kind hand of Providence that brought you here safe and in good health. We thank our Creator for his kindness; we hope we shall bless him for his goodness to us this day.

Brethren and friends, *this council was opened at your request*, for the purpose of laying before this people the business between us and the Ogden Land Company. It is a great and momentous subject. You have given us notice that you were ready to open to us those things which you have in charge. We are now ready to listen to you.

The following communication, agreed upon by the joint committees, was then read and interpreted to them:

To the Seneca nation of Indians in the State of New York:

Brothers! It is now about three years since your friends of the yearly meetings of New York, Philadelphia, and Baltimore were informed of the difficulties in which you were involved with the Ogden Land Company. In the eighth month, called August, in the year 1839, a large committee of Friends came to see you, in order to inquire more fully into the causes of your trouble. We then learned that a treaty, dated January 15th, 1838, had been executed by a number of your chiefs, in which it was agreed that the Seneca Indians should, within five years, give up all their lands in the State of New York, and settle in the country beyond the State of Missouri. To this treaty the names of forty-five chiefs were attached. We also learned that a deed of the same date, conveying to the Ogden Land Company the

four reservations of Tonawanda, Buffalo, Cattarangus, and Allegany, had been executed, and that the names of forty-three of your chiefs appeared on that deed.

Brothers! When we visited you at that time we also learned that the government of the United States had not ratified that treaty, and that the Senate had made another, which was called "the amended treaty." This treaty was, by order of the Senate, to be explained to the Indians *in council*, and then submitted to them for their signatures. This was done, but, as you have assured us, was neither approved nor signed by a majority of your chiefs.

Brothers! When your friends heard these things, their hearts were made sad. They believed that what you told them was true, and that you had been grievously wronged. Under this conviction, relying on the justice of your cause, and the good faith of the government, they appealed to the President of the United States, and to the National Legislature, in both houses of Congress, on your behalf. Documents, showing the manner in which "the amended treaty" had been executed, and fully illustrating your case, as it was represented to us by yourselves, were laid before the President and the other branches of the government. Yet, notwithstanding all our exertions, and the faithful labors of your friends in the Senate, the treaty was ratified and proclaimed by the then President as the law of the land.

Brothers! Ever since that time we have labored faithfully to obtain a revision of that treaty by the constituted authorities of our country. We have printed books to spread the knowledge of your wrongs. We have been many times at Washington to plead your cause. We have solicited the aid of the governments of New York and Massachusetts. We have spared no labor, no expense, no exertion, to obtain relief for our red brethren.

Brothers! We are sorry to have to say to you that the difficulties and obstructions which lay in our path were so many and so great that we could neither walk over them nor remove them out of the way. As soon as the treaty was ratified, and proclaimed by the President of the United States, it became the supreme law of the land; and the deed, which had been signed by a number of your chiefs, vested certain legal rights in the Ogden Land Company, which, we have been told by men learned in the law, could not afterwards be taken from them by any legislative action on the part of the government.

Brothers! Under these circumstances we looked round on every side, and saw no certain way for the relief and preservation of your people, unless a compromise could be made between all the parties to that treaty, by which each of them should concede and give up something for the peace and harmony of the whole.

Brothers! It was thought by some who were friendly to your cause that you might finally obtain justice by an appeal to the courts of law. This subject has been seriously and anxiously considered by us; but when we took into view the heavy expenses of such an undertaking, the great length of time it might require to bring it to an issue, the unhappy effects of hostile proceedings upon all parties, and the unsettling and ruinous consequences of a tedious law-suit upon yourselves, we could not recommend that course to our red brethren, but would follow it ourselves.

Brothers! After we had suffered much anxiety and trouble on your account, and the hope of obtaining any relief for you had begun to fail us, a

way was opened for an accommodation, and settlement of all the difficulties between the several parties to the present controversy. At a council held at Washington, on the 28th day of the first month, in the present year, between the Secretary of War, the agents of the Ogden Land Company, and a delegation of Friends on behalf of the four yearly meetings of Genesee, New York, Philadelphia, and Baltimore, a plan of accommodation was proposed, and it was agreed to put it into the form of a treaty for your consideration. This was done; it was carefully considered, and will now be laid before you.

Brothers! By this arrangement you may, if you please, continue to dwell on a part of the land which the Great Spirit gave to your forefathers. The two reservations of Cattaraugus and Allegany will be restored to you, and will remain yours forever, or until you may choose to part with them. For the two reservations of Tonawanda and Buffalo you will receive a price proportionate to the whole sum mentioned in the deed before mentioned, dated January 15th, 1838, signed by many of your chiefs; and you will be paid for the improvements upon them at the same rate as agreed upon by those who executed the treaty of that date. Under this arrangement, also, such of your people as may choose to remain in the State of New-York will have land sufficient for their accommodation and subsistence, where they may enjoy the advantages to be derived from a surrounding population, skilled in agriculture and the arts of civilized life; while such of them who may prefer a situation in the country beyond the river Mississippi will be left at liberty to emigrate to that place, and take with them their share of the moneys and annuities of the nation; and, moreover, they will be entitled to their portion of the land, as well as to all the other advantages secured to them by the treaty, which has already been ratified. If, then, there be two parties among you, the one an *emigration* party, and the other a *domestic* or non-emigration party, both may be accommodated under the proposed arrangement.

Brothers! It is well known to you, that by your proximity to the city of Buffalo your people are exposed to the pernicious example and contaminating influences of wicked men, by which many of you have been corrupted, and others much injured. Sould you accept the proposed treaty, such of you as may remain on your New York lands will be further removed from a situation which has already been to you a source of much injury.

Brothers! If it should appear to you proper to reject the present proposition, you will stand just as you stood before this attempt to effect a compromise was made. The amended treaty provides for the relinquishment of all your lands in the State of New York; and, at the same time, requires your removal to the country beyond the State of Missouri. "The supplemental treaty" or compromise now proposed leaves all of you at liberty. Such as choose to go may go, and take their shares of the moneys and annuities of the nation: such as choose to stay may stay, and enjoy all the advantages of a country already civilized and improved. We desire that you may seriously consider the proposition now before you. On your decision at this time much of your future welfare depends. You must judge for yourselves. Your friends have come here to lay the contract before you, and to explain its provisions; they have not come to dictate any thing to you, nor to direct you in your choice.

Brothers! We have done for you every thing that it was in our power to do. For more than two years we have labored faithfully in your cause.

You will now know the result of all our exertions in your behalf; and on this solemn occasion we feel concerned to say a few more words to you before we part. To those who may emigrate, and to those who may remain, or whether you all remain or all go away, our communication will be equally applicable to you.

Brothers, listen! You know that the white men have a written language. By this means we can look backward, and see clearly over all the long path in which the *red* men and the *white* men have been walking, now more than two hundred years. We have seen that from the day when the *white men* first set their feet on your land *they* have been *increasing*, and the *red men* have been *decreasing*. The *white* men are now very numerous and powerful; the *red* men are few in number and very feeble. Some of their nations are entirely extinct—their council-fires have gone out forever. Others have been greatly reduced; and the little remnants yet living are poor and weak, and scattered abroad—some in one place and some in another. From the great water which lies towards the rising sun, to the great Mississippi, the father of rivers, a distance of almost one thousand miles, they have nearly all disappeared.

Brothers! We have thought much of these things, and we believe that many of our red brothers have thought of them also. And now we feel it to be our solemn duty to open our minds to you. When great evils fall upon individuals or nations, the wise men among them try to find out the cause; and when they have found it, they endeavor, by the aid of the Great Spirit, to remove it out of the way. This is a duty as binding upon the red men as upon the white men.

Brothers! We all know that war, and strong liquors, and the small pox, as well as other contagious diseases, have destroyed many of the Indians, and greatly reduced their numbers; but when there are no wars, and no contagious diseases among them, they still continue to decrease. We think that the use of strong liquors, and the indolent mode of life yet followed by many of your people, are the principal causes of this decrease.

Brothers! We have heard with much pleasure that on some of your reservations you have made great exertions to prevent the introduction and use of strong liquors among you. If you should succeed in your efforts wholly to keep out this destructive drink, one fruitful cause of your misery and decrease will be removed.

Brothers! The Great Spirit, when he first made man, intended that he should labor. Moderate labor is good for his body and for his mind. It makes him strong and healthful. By industry and diligence he is enabled to have a warm house, good clothing, plenty of wholesome food, and all the comforts of life in abundance. By these means, also, he is enabled to improve his mind by useful learning, and to give his children a good education. Thus one generation after another have the means of growing wiser and better; and we believe that under such circumstances nations always increase in numbers and become strong.

Brothers! You know that under the circumstances in which you are now placed, surrounded by a white population, the white men, by their intelligence, are constantly taking advantages of you, which we believe will always be the case until you are prepared, by a better education and a more general acqueintance with the habits and customs of civilized life, to guard yourselves against them. We believe it essential to your prosperity that you adopt a mode of living suited to your present condition. You

can no longer live by the chase—you must either become cultivators of the earth, or cease to exist as a people. We understand that it is the will of the Great Spirit that man should till the ground; for without tillage it will not produce bread. Where this will is obeyed; *there* we generally see a prosperous and happy people; where it is neglected, vice and misery, and want, and destruction, come upon the nation.

Brothers! Some of you know that your friends, the Quakers, ever since they had settlements among you at Allegany and Cattaraugus, now more than forty years, have preached to you this doctrine. They labored to persuade your people to become farmers, and bring up your children to agriculture, and to learn trades. They saw as plainly as we see now that this was the only way to preserve the Indian tribes from extinction.

Brothers! As our fathers preached to the Indians this doctrine more than forty years ago, so we now hold forth to you the same doctrine. We will not deceive you. We will open our hearts to you freely and plainly. We will tell you the truth. You did not take their advice then, and since that time your nation has been growing weaker and weaker; but we believe it is not yet too late to reform. If you will take our advice now; if you will bring up your sons to agriculture and the arts; if you will withdraw your women from the labors and drudgery of the field; if you will have your daughters taught to spin and to sew, and to knit, as well as to practise the other useful branches of housewifery; if you will set your children an example of sobriety and the other virtues, then will your nation grow and increase, and become strong; but if you will not follow this advice, nothing your friends have done, or can do for you, will save you from extinction; and the day is not very distant when, like the snow under a warm sun, your race will melt away, and be seen of men no more.

Signed on behalf of the joint committee on Indians affairs of the four yearly meetings of Friends of Genesee, New York, Philadelphia, and Baltimore.

G. M. COOPER,	*Genesee.*
WM. S. BURLING,	
N. STARBUCK,	*New York.*
JOHN LEGGETT,	
S. J. UNDERHILL,	
BENJAMIN FERRIS,	*Philadelphia.*
JOSEPH WARNER,	
JOHN JACKSON,	
MOSES SHEPPARD,	*Baltimore.*
PHILIP E. THOMAS,	

BUFFALO, *4th mo. 9th*, 1842.

Israel Jemison then rose and said:

BROTHERS AND FRIENDS: You have now given us your communication—you have made us understand it.

It is now a great many years since there was a full understanding between your fathers and our fathers, that there should be a free and friendly intercourse between you and us. It is true, you have done your duty towards us. Your fathers long ago told us the same things you have told us this day, and you have repeatedly given us the same information and instruction that you now give us.

We believe you to be our friends; we believe you will be faithful to us

as long as our nation shall exist; that you will endeavor to protect us, and give us all the information we need.

In the present communication you have told us that which is true; and we are sensible that if our nation will acquiesce in and embrace your counsel, it would have a most salutary and beneficial effect upon them; and that if we should reform, and wholly reject the use of ardent spirits, we should become a happier and more prosperous people. It is also true, that if we adopt habits of industry, and not lie down in idleness day after day, we should become more comfortable. We also believe that if our women, too—our mothers and daughters—should leave the labor and drudgery that they now undergo for a more domestic employment, it would be both to their and our benefit; it would promote the good of all. It would also be a means of preserving our people, if they would send their children to school and have them instructed in useful learning and the arts of civilized life; and we are fully convinced that if our nation would adopt your habits and mode of life, they would be more prosperous and happy.

We hope your communication will do us good; we hope and pray you may continue to give advice and instruction to this people. There are none who have done as much for us as you have done. You have labored much for us both in body and in mind; you are anxious for our happiness and our safety; you have spent much time and money in our behalf.

Brothers, these are proofs and witnesses that you have much feeling for our people; and we would say to you, that we return you our hearty thanks.

We now come to another subject, the important business of our present council. We are now about to discuss the merits and demerits of this important question.

Brothers, I want to ask you some questions in relation to this compromise. I understand that the Cattaraugus and Allegany reservations will be reconveyed to the Indians, but the Tonawanda and Buffalo reservations will be confirmed to the Ogden Land Company. We want to know, if the chiefs should conclude to give up another reservation in exchange for one of these, whether the Ogden Company would accede to it?

If the chiefs conclude to have certain alterations in this treaty, will the government consent to it?

Do we understand you to say that those who wish to emigrate may do so, and those who wish to stay may stay? There are chiefs of the emigrating party present. They believe, according to the treaty, that they will remove if all the four reservations are disposed of. Suppose they say they are emigrationists if *all* the Indians remove; but if *part* of them remain, they will remain also. Now, if a majority should say to the emigration party that they shall go in the event of a compromise, will they have any power or authority to compel them to remove?

Brothers, it seems necessary that we should inquire into these points, that we may have a fair understanding. I await your answer.

The proposed supplemental treaty was now read, and its provisions explained by Benjamin Ferris. When these explanations had been concluded, Israel Jemison continued:

Brothers, a few minutes ago we put several questions, in order to a fair understanding of the subject, and before you answer them we will ask a few more questions. Have you power to alter or amend this treaty so as to

say this article shall be inserted, or this shall not? The agent of the Ogden Company is not here.

According to this treaty, the President of the United States is to receive the consideration money. Can the Indians draw the principal when they want it?

Since the majority had no voice in fixing the value of the lands, can they change it now? Perhaps they would like to have more than is therein stated; and we would like to know if the Ogden Company would be willing to increase the price of the lands.

Can the treaty be amended by the Indians, so that in case the chiefs conclude to accept it they can lengthen out the time they have to remove, and be permitted to hold their improved lands longer than one year?

William Jones asked, What will become of the Green Bay lands, if the Indians conclude to accept this treaty?

Upon which I. Jemison remarked, Some of the chiefs thought they had no business to meddle with that, as the Indians never wanted the Green Bay lands.

William Jones replied: The reason I put the question was, that the United States had been trying to force the Senecas to own them.

I. Jemison then said he wanted to know what was to become of the Indian land at Oil Spring—it was not mentioned in this or in any former treaty.

The committee replied, that the six hundred and forty acres of land at Oil Spring not being ceded by the Indians to the Ogden Company in any treaty or deed, consequently still belonged to the Senecas.

Wm. Crouse inquired, If the chiefs conclude to accept this treaty, and desire to draw the principal of the money at once, and not let it be paid over to the United States, and receive the annuities therefrom, could they draw and deposite it where they please—I mean deposite the principal in some other place, and receive the annuities? I also wish to know, if the emigration party should conclude to go to Cattaraugus, and stay awhile, and afterwards conclude to go beyond the Mississippi, can they at any time take their annuities?

Tunis Halftown said, I want to ask a question, as the door is now opened. Will the Ogden Company give up the pre-emption right to these two reservations?

Daniel Twoguns asked, Will the Company consent to the Indians dividing these two reservations into farms, so that each family will have the sole power to buy and sell, without the consent or authority of the chiefs?

Samuel Gordon said he thought there was no use in asking questions, until they knew whether any alterations in the treaty could now be made.

Benjamin Ferris, on behalf of the committee, stated that the object of the council was expressly to lay the whole subject before the Indians for their consideration—we did not expect a final decision until the Indians should fully examine the proposition in all its bearings—and that they were at liberty to ask any question which they might think necessary to a fair understanding of the subject.

Jacob Johnson then inquired if the Ogden Company would be willing to let the Indians retain their improved lands on all the reservations, in case they should be willing to give up to the company all their wild lands on the four reservations?

Henry Twogunns repeated a question put by Israel Jemison, whether this supplemental treaty could be altered or not?

Lewis Halftown asked, if we should reject this treaty, as we have never assented to the amended treaty, what consequences would follow?

Samuel Gordon wished the committee to state, distinctly, whether the proposed treaty could be amended by the Indians or not?

Israel Jemison asked for the same thing; he also wished particularly to know, if the Ogden Company really had acquired vested rights under the supplementary treaty, what considerations had led that company to accede to this compromise arrangement?

Philip E. Thomas, on behalf of the committee, then made the following statement:

We will endeavor, in a few words, to inform the council of the circumstances which led to the compromise now proposed.

When this subject was first brought to our knowledge, the amended treaty, together with a deed of conveyance, by which the Senecas had alienated the four several reservations of Tonawanda, Buffalo, Cattaraugus, and Allegany, had been executed. It was alleged by you that very corrupt means had been employed in procuring this deed and treaty, and in your then distressed situation you solicited our aid.

The committees of the four yearly meetings, after taking the whole subject into consideration, and endeavoring to ascertain the best course for them to pursue, under the circumstances in which they found you placed, waited on the then President of the United States, in whose hands the treaty at that time was, and requested him to return it back to the Senate, in order that this body might have an opportunity to reconsider it. At the same time they petitioned the Senate not to ratify it, and they also laid before both the President and Senate all the evidences that had been furnished by you of the improper means employed to procure the treaty.

Notwithstanding all these representations, the treaty was finally ratified by the Senate, and subsequently it was formally proclaimed by the President.

Finding that nothing could be gained for the relief of the Indians by appeals to the President or Senate of the United States, the committee petitioned Congress not to furnish money to carry it into execution. This, however, they were aware could only produce a temporary suspension of the treaty, because it was foreseen that in the end Congress would grant the money, and the treaty be carried into effect.

As soon as your friends discovered that there was but little hope of defeating the treaty in the Congress of the United States, they began to consider whether an appeal to the courts of law, on behalf of the Indians, might not be made. After obtaining the best advice they could procure in relation to this subject, they perceived that this would not be a discreet measure, and should not be resorted to but in the last extremity. It was certain that if adopted it would consume a great length of time, and involve a large sum of money; while there was scarcely a hope that in the end it would result in any advantage whatever to the Indians.

When they had arrived at this point they began to despair of effecting any thing for your benefit, unless the Ogden Company could be induced to enter into a compromise; and they determined to make an effort to effect the best arrangement they could in that way.

They saw that the treaty as it now stood, however it might have been

procured, had become the fixed law of the land; that the Ogden Company had acquired certain rights under it, which could not be taken from them by any legislation; that the treaty having all the constitutional forms necessary to make it valid, would be so considered by the courts of the United States, and would be carried into effect.

Considering that, by the conditions of this treaty, the whole of the lands in your four reservations had been ceded by the Indians, and that within five years you would be driven from your homes, into a far distant wilderness, the committee were most anxious that this great calamity might be averted; and after considering the matter very maturely, they concluded to open a correspondence with the Ogden Company. When the proposition for a compromise was first made to the agents of that company, they promptly rejected it, and avowed that they did not want any compromise; that they had bought the lands and would take possession of them; consequently, the first interview with them terminated without any prospect of success.

An appeal was then made to the Secretary of War, and by his interposition a second interview with an agent of the company took place in the War Office, at Washington, at which the Secretary was present; and from that time he effectively lent his aid to assist your friends in carrying out the proposed measure.

The Ogden Company perceiving that not only the whole influence of the Society of Friends would be exerted against them, but also that we should have the assistance of the government, now listened to our overtures, and several interviews took place afterwards with the agents of that company. After a great deal of labor and perseverance, the negotiations with them resulted in the procuring for you the return of the two reservations as now proposed by this treaty.

We informed you, when we came here, that it was our intention to open our hearts to you freely. We will not conceal any thing from you. We therefore tell you plainly, that we have, after encountering many difficulties, and expended much time and labor, obtained for you the most favorable terms in our power. The Ogden Company have with difficulty been brought to agree to the terms of this treaty; and it is our opinion, which we desire you distinctly to understand, that if the present terms are rejected, you will never be able to obtain as favorable ones hereafter.

There are among you wise and judicious men, who understand your interests, and are capable of deciding what will best promote the happiness and welfare of your nation. The question at issue is now plainly before you. It is, will you prefer to occupy two of your reservations as now proposed, or will you relinquish the whole, according to the stipulations of the amended treaty, and remove to a distant wilderness?

We repeat that it is not our purpose to dictate to you what course you shall pursue. The object of our coming here at this time is to lay before you all the advantages we have been able to secure for you, that you may be made acquainted with and fully understand your situation, and the alternatives before you. If, after considering the subject, there be any point upon which you may think our advice could be useful to you, you know we have always been your friends, and are disposed to render you our best service. Should you now, therefore, want our advice, we will endeavor, by the aid of the Great Spirit, to give you the best in our power.

At the time we held the council with some of you at Farmington, you requested us to tell you when we had lost all hope of doing any thing for

you. Since then we have done all that we could. We found by the treaty that you had alienated the whole of your lands. We have succeeded in obtaining the restoration of a considerable part of them to you, and we have no hopes of effecting more.

The treaty, as it is now offered to you, is not open to alteration or amendment. It must either be accepted or rejected *as it is*. This your friends have assented to, because we are convinced that if it be once open to alteration, matters might be introduced into it prejudicial to your interests, whilst there is no hope that any additional advantages whatever could be obtained for you.

Benjamin Ferris then, on behalf of the committee, returned the following additional answers to the questions that had been put by the Indians:

Question. Can the chiefs, if they desire it, have another trustee than the United States to hold their moneys?

Answer. We are not prepared to give a positive answer on this subject, but we think that under the present very unsettled state of the monetary affairs of our country, the United States would be the best trustee that could be chosen for you. We therefore think the arrangement on the subject, as contained in the treaty, should not be disturbed.

Question. Can the money be paid immediately to the Indians for division?

Answer. The proportion of one hundred and two thousand dollars for improvements is to be paid immediately to those who own these improvements, upon their relinquishing them, as provided by the treaty; the other part we think must be left for the present. But whenever a change can be made that is desirable to the Indians, your friends will do for you what they think may be best in the case. As the United States have no interest in holding this money, they being obliged to pay six per cent. for it, we presume they will not object to pay it at the solicitation of your friends. The time may probably come when it may be right for you to possess the principal of these annuities, and we see no reason why the government may not be disposed to grant your request. You may rely on our co operation and assistance in obtaining for you justice at the hands of the government.

We want you to understand that this is not the final council for the ratification of the treaty, but is designed to prepare you to come to a decision in the case. If you decide to accept this treaty, a commissioner will be appointed on the part of the United States, and one from Massachusetts, to attend to its execution. If you reject the compromise, there will be no need that they should come.

Israel Jemison said:

Brothers! I wish to inform you that it is the custom of the chiefs of the Seneca nation, when they have important questions to discuss, to examine the subjects before them fully before they decide upon them. You have explained this treaty and its provisions to us; we will deliberately consider it; we do not know what the minds of the chiefs are—therefore we cannot tell when we will return you our answer.

You are now at liberty to retire from the council, when you desire to do so, and we will discuss the matter among ourselves.

Benjamin Ferris, on behalf of the committee, then added:

We wish to say a few more words before we part, in answer to the question, whether there is any thing in this treaty which obliges the emigration party to remove? The treaty you have heard read is a treaty with the *Sen-*

eca nation, and not with any *party*, either an emigration or non emigration party. This is explained in the address we have already read to you. We now propose to leave you for the present, and at any time you may desire we will meet you again. If at such time you have any other questions to ask, we will endeavor to answer them. When you have nothing further to ask by way of explanation, we will feel ourselves at liberty to return to our homes, but will leave our friend, G. M. Cooper, to receive and bring your answer to us.

The council then adjourned to 2d day, the 11th instant.

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The council again met 4th mo. 11th, 1842, at which time the committee, by invitation, attended.

William Jones, one of the chiefs, gave notice that they were now ready again to do business.

Philip E. Thomas, on behalf of the committee, remarked :-

Brothers! At the council held two days ago, we explained the reason that had led us to visit you at this time. We informed you of the efforts that had been made to procure for you an alteration in the arrangements which had been executed for the relinquishment of your lands to the Ogden Company, and the difficulties that laid in our way in effecting that object. We likewise laid before you, and carefully explained to you, the terms and conditions of the proposed supplemental treaty that has been arranged by your friends for you, and we suppose that you now understand the whole matter. We have, however, thought it would be best, before we returned to our homes, to have a parting interview with you, in order that if you desired any further information on the subject, you might have an opportunity to obtain it.

Joseph Silverheels then asked, if an Indian emigrates from these reservations, can he have his share of the lands and annuities of the whole nation?

To which Benjamin Ferris replied: We understand, by the provisions contained in the supplemental treaty, that any number of the Seneca nation choosing to go west and settle on the lands reserved for them there, will be at liberty to take with them their share of the moneys and annuities of the nation; they will also be entitled to the advantages of the previous treaty, which secures a remuneration to the individual Indians for their improvements; every Indian will, therefore, be paid his proportion of the *one hundred and two thousand dollars* coming to him on that account. The treaty makes no provision for a distribution of the moneys of the nation to any Indian who shall emigrate to lands held by a foreign power.

Question by a chief. If the chiefs should ratify this treaty, and soon after conclude to go to the west, can they go?

Answer by Benjamin Ferris. If this treaty should be ratified, the reservations of Cattaraugus and Allegany will be considered as the property of the whole Seneca nation. If the treaty should be accepted, and the whole Seneca nation be settled on these reservations, and any individual shall afterwards choose to emigrate to the country set apart for the Indians in the west, he will be entitled to his share of the annuities of the nation, which will be paid to him yearly at his new home: the treaty provides that the lands on these two reservations shall remain the property of the Indians

who will continue to reside on those lands; but if the nation shall, at any future time, conclude to sell these two reservations, those who have removed before such sale will be entitled to their proportion of the amount of such sales.

Question by Daniel Twoguns. If the Indians, at some future day, conclude to sell the Cattaraugus and Allegany reservations, will they be obliged to sell them at the price mentioned in a former treaty?

Answer by Benjamin Ferris. One of the advantages the Seneca nation will derive from this treaty is, that they can demand what price they please for these lands; and if they do not choose to sell them, there is no power on earth that can force them to dispose of them.

Question by Israel Jemison. Suppose a part of the nation emigrate now to the west, and at some future day a treaty should be held to sell the lands; can those chiefs who may have emigrated have a voice in selling the lands of the nation?

Answer by Philip E. Thomas. By the conditions of the proposed treaty, their due proportion of the annuities will be paid, at their new residence, to all the Indians who emigrate to the west, in the same manner as if they had not removed. But, as by their removal they will acquire rights and privileges on the new lands, they cannot, after they go away, claim to exercise any control over the reservations which they may have left. There is a provision in the treaty, that should the Seneca nation, remaining on their lands, at any time hereafter choose to sell them, then whatever share of such lands would have belonged to these emigrants had they not removed will still inure and be paid to them.

According to the terms of this treaty, the full and complete right and title of the Seneca Indians to all the lands on the two reservations of Cattaraugus and Allegany are to be restored, and by deed reconveyed to them, with the same title and under the same conditions as they were held before any deed or treaty had been made; so that neither the Ogden Company, nor any individual, will ever have any right or power to interrupt the Indians in the peaceable possession of these reservations as long as they choose to remain on them; consequently the power to hold or sell these lands will remain exclusively in the Seneca nation, forever.

Daniel Twoguns said: According to the amended treaty, the Indians, if they conclude to go west, must remove within a limted period. Can the time of their removal be extended beyond what is mentioned in the treaty?

Answer by Benjamin Ferris. The only restrictions as to the time of removal are contained in the treaty of 1838; by that treaty the President of the United States has the power to extend the time beyond the period therein mentioned. That power will remain with the President, because the treaty remains in force, except so far as it is altered by the present treaty.

Oliver Silverheels said: The Secretary of War some years ago proposed to the Indians, that in case they would consent to remove to the west, and were not satisfied with the lands the government had reserved for them, they might select other lands belonging to the government to settle on. Would the government now renew such a proposition to the Indians?

Answer by Benjamin Ferris. An attempt was lately made to obtain lands from the Sacs and Foxes for the Indians that dwell east of the Mississippi river. That attempt was made, we understand, in consequence of a desire to remove the Indians from the Territory of Wisconsin, which lies

east of the Mississippi river. We also understand that all the influence of the government to procure a territory there has failed; and we therefore believe that if any of the Seneca Indians incline to remove to the west, they will have to occupy the territory already assigned them.

Wm. Crouse inquired, if the Indians conclude to remove to Cattaraugus and Allegany, will they be entitled to their proportion of the appropriation of the United States government by such removal?

Answer by B. Ferris. There is no provision in the treaty for such an appropriation. The Indians that remove from Tonawanda and Buffalo will be individually paid for their improvements, according to the terms prescribed by the treaty.

We wish the Seneca nation distinctly to understand the position they now occupy. By the treaty which has been ratified, all their lands are sold to the Ogden Company. They therefore now own no lands. By the proposed supplemental treaty, two reservations are to be reconveyed to them by deed; in which case, they will then own those two reservations. By the present arrangement the Indians are the grantees, and the Ogden Company the grantors; and therefore there is no provision for paying more than the price of the conveyance. By this treaty, the Indians do not give any thing; they are only the receivers.

Israel Jemison, after premising that what he was about to say was on his own responsibility, and not on behalf of or by authority of the chiefs, remarked:

I will never say that I have parted with my lands. I have never signed any instrument conveying these lands to the Ogden Company. I believe if the chiefs, or a majority of them, ever conveyed these lands to the Ogden Company by good and sufficient title, that company would never be willing to convey them back again. For my part, I conclude that because they are now willing to restore these two reservations, they consider the contract was fraudulent and not valid.

It is my opinion that the white people will resort to any means to deceive the Indians. Because we are few and weak, they think they can do as they please with us: they take advantage of our weakness, to cheat and deceive us.

We were told last year by the Secretary of War, in a written communication read to us by Daniel Kurts, that if the Indians did not wish to remove to the lands the government had assigned them in the west, but should prefer to remove to another place, they might do so. It seems now that this proposition was made to gain influence and obtain votes in favor of the treaty. The laws of the United States required that the Indians should emigrate to the Indian territory; and yet this proposition was made by the Secretary of War!

Brothers, the white people understand how to deceive; they know how to make statements and propositions that shall appear plausible to the minds of the Indians: they say one thing, and at the same time mean another.

It is my determination, from this time forward, never to consent to part with these lands or any thing that I have. If an individual proposes to purchase my lands, and I do not wish to sell, he cannot have them. He may, if he has the power, and thinks best to use it, compel me to part with my property; but while I have a voice in the matter, my answer will be—you cannot have it.

If I consent to this treaty, my mouth will be shut; I shall then have no

voice in the sale of my lands. Now, I think, in order to make a contract valid, both parties ought to have a voice in making that contract. I shall therefore not consent to this treaty.

* John Black Smith, a Tonawanda chief, after premising that what he was about to say was upon his own responsibility, and not by any authority of the chiefs, said:

Brothers, you have now laid this treaty before us, and explained its provisions. I told you at the council at Farmington that the Indians of Tonawanda would never consent to part with their lands, and remove to the west. I said then what I say now: I will never do it. I told you that not one of the chiefs on the Tonawanda reservation had signed any treaty since the commencement of this negotiation; neither have they received any money from the Ogden Company. Now, the treaty before us is a proposition from that company to the Indians, and the provisions therein contained I do not approve of, and will never consent to them.

Tunis Halftown then rose, and stated that he wished to say a few words on behalf of the Allegany chiefs:

It seems, from the treaty now before us, that two of the reservations will be restored to the Indians, and it appears to me that we have only to accept or reject it. But as two of the chiefs have expressed their own views in relation to it, a question occurs to me, whether, if the chiefs of the two reservations accept it, and only a few on the Buffalo and Tonawanda reservations unite with them, will that be sufficient?

Answer by B. Ferris. It is our judgment this must be determined according to your custom of settling all your national affairs; it must be the act of the nation; you must accept or reject it according to your usual mode of doing business.

Daniel Twoguns said: Since you have done so much for the Indians, and spared no pains in your labors for them, and have now laid before them the terms of a compromise, what is your advice in this matter? is it better for the Indians to accept the compromise, or not?

The committee, before answering this question, requested to be informed whether it was *the wish of the nation* that we should give them our advice; if it was, we were prepared to tell them what we thought would be best for them.

After consulting a considerable time, it was concluded by the chiefs not to ask the advice of the committee on the subject. Some of the chiefs remarked, that if we gave them advice, and they did not follow it, it might be considered as a breach of friendship; whilst others thought they would be bound to take our advice in case they asked it; they therefore concluded to decide the matter among themselves.

Benjamin Ferris then remarked:

Brothers! We have now heard what you had to say in relation to injuries that have been committed on your nation by the white people; our hearts have bled on account of the wrongs that have been inflicted upon you. When we undertook your case we found you in difficulty and trouble; for three years we have faithfully labored for your benefit, and we have now submitted to you the result of all our labors; we want you to reflect; and after mature consideration, to decide for yourselves. If you

* These are the only chiefs, who attended the council, that did not assent to the supplemental treaty.

accept the present treaty, we have explained to you what you will secure by it. If you reject it, you are aware that you will be exactly in the same position you were before this attempt was made for your benefit.

In relation to what was said by a former Secretary of War, (J. R. Poinsett,) when he informed you the government would procure other lands for you in the west than those already set apart for the Senecas, we believe it right to state that, in our opinion, that proposal was held out in good faith, because we know a delegation was afterwards appointed by the government to proceed to the country west of the Missouri, and we believe that strenuous exertions were made to obtain such a territory; but there were so many difficulties laid in the way by the whites and Indians already located there, that the object was defeated.

When the council was opened, we read to you an address, which contained the result of all our labors and deliberations in your behalf. It is our intention to leave with you a copy of this address, in which our whole mind is explained; one of our friends will also remain with you to receive your decision, and he will send it to us.

And now, having fully communicated to you the business we had in charge, we leave the whole subject with you for your own consideration and final decision.

William Crouse then spoke on behalf of the chiefs, as follows:

Brothers! You have now given us your communication, and explained the whole of your business, so that all our chiefs understand it.

Brothers! You may expect that this subject will be thoroughly examined and discussed by the chiefs, and some determination will be come to by them; we understand that one of your number will remain here to take our answer to you; we like that arrangement.

Brothers! You are about to leave this council and our nation. We will take you by the hand, as our meeting is about to close with you. We hope you may return to your homes in safety, and that the Great Spirit will protect you in your journey, and enable you to reach your families in good health.

Brothers! We must leave all things to the kind care of Him who rules over the affairs of nations, and hope that our decision may be such as will promote the good of all, and be most for the advantage of our whole nation.

John Jackson then addressed the following remarks to the council, on behalf of the committee:

Brothers! We are now about to leave you, and return again to our families. You told us, when this council was opened, that it was a long time since there was a full understanding between your fathers and our fathers; that there should be a free and friendly intercourse between the Society of Friends and your people; we rejoice that this friendly intercourse has continued down to the present time; and we desire it may continue while you exist as a nation.

When we undertook to assist you in your present difficulties, we had no interest or selfish motive in view; we believed you were an injured and oppressed people; we thank the Great Spirit that he has opened our ears to hear you, and has enabled us to feel and sympathise with you in the many difficulties by which you are surrounded.

We have laid before you the important concerns that were intrusted to us; we have opened our minds to you freely; we leave you to deliberate on these subjects; to judge for yourselves, and to come to your own con-

clusions. We désire that your decisions may be so directed by that wisdom which is from above, that whatever you do may result in the happiness and prosperity of your people.

Brothers! In conclusion, we now bid you farewell. We shall continue to feel a deep interest in whatever concerns our Indian brethren; and should trials and difficulties hereafter overtake you, we shall endeavor to be prepared to embrace every opportunity availingly to assist you, and to plead your cause.

The committee now withdrew, leaving the Indians in consultation upon the matters that had been laid before them. By the following letter, since received from our friend Griffith M. Cooper, we have been informed of the result of their deliberations:

BUFFALO RESERVATION, STATE OF NEW YORK,
4th month 15th, 1842.

MY DEAR FRIEND: After the committee of Friends had closed their labors, and withdrawn from the general council of the Senecas, on the 11th of this month, I continued here, in accordance with the request of the committee, and regularly attended the council every day, for the purpose of giving such further information, on behalf of Friends, as might be desired.

The conditions of the proposed supplemental treaty had been so clearly opened and explained to the chiefs, that they appeared fully to understand all its provisions. There was a very general attendance from the four reservations, and a deliberate discussion, upon every article of the treaty, took place. The council, which had been opened on the 9th instant, met daily, and did not close its sessions until this evening, when the question upon the acceptance or rejection of the proposed treaty was finally decided.

In a letter addressed by the Indians to the Secretary of War, and which they have requested me to transmit to the committee, to be by them delivered, they say:

"We agree to accept of the proposition for a supplemental treaty, as that treaty has been read and explained to us by the committee of the Society of Friends, and to give our assent, in due form, to said treaty, when it shall be presented by the proper officers on the part of the government of the United States, and when the Ogden Company shall have complied with the stipulations of said treaty on their part;" and "we request the government to make the necessary arrangements for the execution of said treaty, by sending the necessary officers on the part of the government of the United States, and of the State of Massachusetts, and of the Ogden Company, to meet us in council, on the Buffalo Creek reservation, on the 16th day of May next, or at the earliest convenience of the government."

This letter was signed by 79 chiefs, which included all of them that were present, except two.

Although the council have, as here stated, agreed to accept the treaty on the conditions offered, yet, at the same time, they have informed the Secretary of War that they are very desirous to be allowed a longer time than is limited to remove from the improved lands now agreed to be relinquished; and have also requested a modification of some of the other conditions, which they have explained to the Secretary, and requested the aid of Friends in effecting.

The council, in concluding their communication to the Secretary of War, further say:

"We have strenuously maintained, and we still believe, that the Seneca nation, as such, never has assented to the sale of our lands to the Ogden Company; but we think this compromise better for us than to adopt any other means in our power for obtaining redress; yet, as an injured and oppressed people, we throw ourselves upon the mercy of the government, entreating that, if it be possible, the government would obtain for us these proposed alterations. But if this cannot be done, we must submit to our fate."

Notwithstanding we have not gained for the Indians all that we could have desired, yet it is a circumstance most gratifying to us that, by this arrangement, the forcible expulsion of these greatly injured people from the country descended to them from their forefathers is prevented; and that, although, under this arrangement, they will be deprived of a portion of their lands, yet they will receive some compensation for the part now to be alienated, and it is believed will retain a sufficiency on which they may, with industry, secure a comfortable subsistence.

Situated as we now are, our position towards these people has become one of deep responsibility. They are poor, and feel very helpless. They believe there are none but the Society of Friends on whom they can safely rely, and they have an unshaken confidence that we will not desert them; and this opinion has had a powerful influence upon their recent deliberations.

They have arrived at a crisis never before presented; and a large field for labor is about to open, in which their friends may use the means which a benevolent Providence has put in their power to rescue from extinction and secure the civilization of this remnant of the Seneca nation of Indians, and I greatly desire that our hearts may respond to the call. The circumstances by which they are surrounded, and their almost universal desire for education and improvement in the arts of civilized life, conspire to insure to our labors a favorable result, and to crown our exertions with a successful and happy conclusion.

The council which has just been dissolved was closed with an expression of fervent gratitude to the Great Spirit for his continued goodness in keeping the chain of friendship bright between their old friends, the Quakers, and the Seneca nation, and with the expression of an earnest desire that this friendship may never be dissolved until the Senecas shall cease to exist.

It affords me a sincere gratification to be able to add, that by this effort on the part of Friends, which is about to be brought to so happy a termination, the animosities that had been engendered amongst the Indians by artfully designing individuals, on the question of their emigration to the west, are likely to become healed, and that peace and concord will again be restored amongst them; all parties having appeared cordially to unite in the final conclusions of the late council, and to have separated with a manifestation of reciprocal good feelings towards each other.

Thy affectionate friend,

G. M. COOPER.

PHILIP E. THOMAS.

It may not be irrelevant to the subject of this narrative to state that during the stay of the committee at Buffalo a meeting for divine worship was held on the Indian reservation, and was attended by a large number of the Senecas.

On this occasion an opportunity was afforded to open some views in relation to the nature of true religion, and its happy influences on the condition of man.

It was shown that vital religion does not consist in mere abstract opinions, nor in the speculative theories of men, nor yet in the performance of external rituals or ceremonies; but in an unreserved obedience and practical adherence to the teachings of the Holy Spirit, which the Author of our being has, in his great mercy, throughout all ages of the world, been pleased to dispense to his rational and accountable creation; and that it is by the aid of this Divine illumination that man is enabled to advance in a knowledge of the attributes of the Great Spirit, and is made happier in time, and prepared while on earth for an inheritance in that kingdom of rest and peace which shall never have an end.

The reality of this illumination—its universality and its entire sufficiency for all the purposes of salvation—were demonstrated by Scripture testimony. These views were clearly opened to the audience, and were shown to be in accordance with the declaration of the inspired Apostle, when he affirmed, "the grace of God that bringeth salvation hath appeared to all men, teaching us that, denying ungodliness and wordly lusts, we should live soberly, righteously, and godly in this present world."

Towards the close of the meeting an aged chief rose and addressed the congregation in his native tongue. The impressive manner in which his communication was delivered, and the solemnity that prevailed over the audience, gave evidence that he spoke "not with enticing words of man's wisdom, but in demonstration of the Spirit and of power."

We afterwards learned that the substance of his testimony was an expression of unity with what had been spoken, and an affirmation of its accordance with his own experience. He also acknowledged his deep sense of gratitude to the Great Spirit for having favored them with the present opportunity; and then appealing in an earnest and affectionate manner to those around him, particularly to the youth, he urged them to appreciate the labors which Friends had bestowed on their account, and to treasure up in their minds the good counsel that had this day been given to them, and concluded by declaring it to be his solemn belief that it was only by obedience to the inward teachings of the Great Spirit, to which their attention had now so affectionately been commended, that they could hope to enjoy a peaceful mind in this world, or be prepared to partake of the joys of that which is to come.

Thus an additional evidence was afforded that the aboriginal mind is capable of fully comprehending the essential doctrine of the Christian religion; confirming the views of the enlightened Apostle, when he declared, "that God was no respecter of persons; but in every nation he that feareth Him and worketh righteousness is accepted with Him."

Proceedings of the second Indian council, held at the Buffalo Creek reservation, State of New York, 5th month 16th, 1842.

Present—Ambrose Spencer, commissioner on the part of the United States; Samuel Hoar, commissioner on the part of Massachusetts; Abraham Dixon, delegate from the legislature of New York; Thomas L. Ogden and Joseph Fellows, agents of the Ogden Land Company; Philip E. Thomas, Moses Sheppard, Joseph S. Walton, Benjamin Ferris, John Leggett, Griffith M. Cooper, and Isaac Post, representatives from the general committee of Friends of the four yearly meetings of Baltimore, Philadelphia, New York, and Genesee; and the chiefs and headmen of the Seneca nation.

The council was called to order by Stephen Osborn, Indian agent, when Governor Black Snake, a venerable war chief of the Allegany reservation, aged above ninety years, said, through the interpreter, that if the commissioners were ready, he desired to make a few remarks. On being requested by the commissioner on the part of the United States to proceed, he said:

Brothers! I am happy to say that I feel much gratified to meet here in council the commissioner appointed by the government of the United States and the commissioners from the States of Massachusetts and New York; and also the Friends we met here on a former occasion. I desire to return thanks to the Great Spirit for preserving us all on our journey to this place. Some of you have come a long distance, and it is to the protection and goodness of the Great Spirit that we are indebted for our preservation and for whatever good we enjoy.

I have been instructed by the chiefs who are here to inform you that only part of our number are now present. We expect the remaining chiefs from Cattaraugus will be here this afternoon, and the Tonawanda chiefs will be here by to-morrow at 10 o'clock.

To which the commissioner on the part of the United States replied:

Brothers! I am here as commissioner on the part of the United States, by whom I have been delegated to meet you this day in council. The gentleman on my right is a commissioner appointed to attend on the part of Massachusetts, and the gentleman on my left has been delegated to attend here on behalf of the senate of the State of New York. We unite with you in returning thanks to the Great Spirit for bringing us together, that we may deliberate on the matters about to come before us. The subject is one of vast importance to you. You are aware that *we* can have no possible interest in the issue; and we hope and trust, with the blessing of the Great Spirit, that our conference will be followed by happy results, both to you and to all others that may be concerned.

Inasmuch as it appears that only a part of your chiefs are now present, we propose to adjourn the council until to-morrow at 10 o'clock, when we hope the matter will be brought to a satisfactory conclusion. Till then, we bid you farewell.

The council then adjourned.

THIRD DAY—FIFTH MONTH 17, 1842.

The council met pursuant to adjournment. Present, sixty-four chiefs.

The chiefs were asked if those present were ready to proceed.

N. T. Strong, an educated chief from the Cattaraugus reservation, re-

marked that they "had better not go too fast." It appeared that there were but three chiefs present from Tonawanda, and they were not ready. More would arrive by noon. All the Alleganies were present who were expected. A chief from Tonawanda said that the Indian agent had never notified them of the council. They first heard it from the Friends whom they saw at Lockport.

John Hudson, a chief, observed that runners had been sent to bring in the chiefs from Tonawanda and Cattaraugus reservations, who had not yet arrived: the council was therefore not ready to proceed to business, but they expected the absent chiefs would arrive to-day by noon.

The commissioner on the part of the United States:

Brethren! We met you here yesterday according to the appointment of the Secretary of War, and supposed all the chiefs had been notified of the meeting. Mr. Osborn, the Indian agent, told me that he gave notice to several of the Tonawanda chiefs of the meeting to be held yesterday, and I now wish to know whether the majority of those present are for proceeding now, or putting it off till 12 o'clock.

Upon the question being taken, it appeared that a majority of the chiefs were in favor of at once proceeding to business; upon which the commissioner on the part of the United States remarked that, notwithstanding the council would now proceed, if any more chiefs came in and wished information, it would be given. He then addressed them as follows:

Chiefs, headmen, and warriors of the Seneca nation of Indians residing in the western parts of the State of New York:

Brethren! Your great father, the President of the United States, has appointed me a commissioner to hold a treaty with you respecting a modification or change of a treaty made by you with the United States on the 15th of January, 1838.

The Commonwealth of Massachusetts, to whom belonged the right of pre-emption to a large part of western New York, and particularly your reservations, has appointed the Hon. Mr. Hoar as a superintendent of our proceedings, the more effectually to guard and protect your rights.

The Hon. Mr. Dixon also appears here, under a resolution of the Senate of New York, for the like purpose.

I now come before you clothed with the authority of the United States, as such commissioner of the United States, to enter upon the business of my appointment.

Brethren! Your great father, the President of the United States, has heard your complaints against the late treaty, by which you conveyed to Messrs. Ogden and Fellows all your four remaining reservations, the Buffalo creek, the Cattaraugus, the Allegany, and the Tonawanda. The treaty made on the 15th day of January, 1838, after an amendment by the Senate of the United States, was again submitted to you and received your sanction; and on the 4th day of April, 1840, it was proclaimed by the then President, Mr. Van Buren, as the law of the land, and as such is binding on you and them.

Brethren! Your steadfast, and benevolent, and best friends, the Quakers, believing that the treaty of the 15th day of January, 1838, as amended, had been improperly obtained, and that its provisions were hard upon you, particularly as it compelled you to emigrate to a region west of the Missouri,

against the will of many of you, have exerted themselves to the utmost to obtain an alteration of that treaty, and, through the instrumentality of the Secretary of War, have at length succeeded in inducing the Ogden Company—so called, that is—the persons benefited by that treaty, as having the right of pre emption to your reservations, to consent to a modification or change thereof.

Brethren! By this modification or change you will retain and have restored to you two of the four reservations, the Cattaraugus and the Allegany, and these you and your posterity can hold, occupy, and enjoy forever, if your race continues, and if you and your posterity choose to keep them; and thus you will be spared the necessity of emigrating, and the treaty of 1838 will still remain in force as to those who choose to emigrate.

Brethren! The treaty now about to be offered to you is the same, with one exception, that was read and explained to you by your friends, the Quakers, at a council held with you on the 9th of last month, and which 79 of your chiefs, under their signatures, informed the Secretary of War had been accepted by you.

By the kind interposition of the Secretary of War, the time for your removal from the Buffalo creek and the Tonawanda reservations has been extended to two years instead of one, leaving such of you as may wish to remove at an earlier day at liberty to do so, and providing to such as wish to remove before the expiration of two years prompt payment for the improvements they may relinquish; and this is the only material alteration from the project of a treaty submitted to you on the 9th of last month.

Brethren! You also made two other requests; one that 2,500 acres of the Tonawanda reservation might be reserved to your brethren who reside on that reservation, and another that the privileges you had granted to the Hydraulic Company should be secured to them. It was found impracticable and inexpedient to insist on these requests. The agreement between you and the Hydraulic Company is a private and personal concern, with which the United States have nothing to do; and the persons interested must negotiate with the Ogden Company, who I trust will do what is just.

Brethren! I have already said that, by the treaty now submitted to you, and to which you have informally agreed at your council in April last, you will have receded to you, in as full right as you ever enjoyed them, the Cattaraugus and the Allegany reservations. I will now proceed to read over and have interpreted the treaty now proposed to you.

[The treaty was then read by paragraphs, and interpreted to the council.]

Brethren! I shall say noting to influence you. It is for you to determine, with the advice and assistance of your real friends—friends who have labored and toiled for you—whether the treaty now offered to you is or is not greatly to your advantage, and much more so than the treaty of 1838.

It is my duty, and I am armed with power for that purpose, to take care that your deliberations shall be free, and that our councils shall not be interrupted. It is my duty also to take care that a majority of your chiefs and headmen sign the treaty in a sober state of mind, and in full council.

Brethren! As a New Yorker I am proud to say that your rights, and the rights of all the Indian tribes within our borders, have always been respected and observed, and that you, and all the Indians in this State, have been treated justly and humanely. We mourn over your misfortunes and your decrease in numbers, and we would do all in our power to elevate your

condition—to civilize and christianize you; and we pray the Great Spirit may direct and preserve you."

The commissioner from Massachusetts addressed the council as follows:

"My Friends: I am very happy of the opportunity afforded me of meeting you on this occasion. I am very glad and thankful to the Great Spirit that he has preserved so many of you, and brought you together in health at this time, that you may deliberate upon a subject of great importance to you. The State of Massachusetts, in whose behalf I come, feels an interest in your welfare. The governor of Massachusetts has directed me to come here to meet you on this occasion, and to furnish you such aid as is due you from the State of Massachusetts. I am not instructed to advise you to sell your land, or part with it, or remove from it, or from any portion of the same, unless you shall freely choose to part with it. If you believe that you have more land than is useful to you, if you think you can make a better use of the money for which you may sell your land than of the land itself, then you may do so with the full approbation of the State of Massachusetts; but if, on the contrary, you believe that the whole of the land you now occupy is necessary for your comfort; if it is disagreeable for you to remove; if it will be inconvenient for you; I wish you to understand that the State of Massachusetts will never consent to have you removed from your present possessions: they consider you as having the right to decide on the question of sale; they do not intend to judge what will be for your welfare. My desire is to inquire if you understand the contract you are about to enter into; and if each and all of you do not understand every part of it, that you will make known your doubt, that the contract may be fully explained to you. If, after you have understood this to your satisfaction—if it has already been explained to you, as I am informed by those who are your best friends, as well as the friends of humanity, the Quakers—you now approve of the contract, then the State of Massachusetts will ratify the same, and you have their full consent to do so, and their prayers that it may be for your good.

"My Friends: I have now no more to say, but to attend to the negotiation as it proceeds; and if I can be assured that you are satisfied with it, I shall be content, as I shall be sure that my duty has been performed."

The commissioner on the part of the United States: "I do not rise for the purpose of entering into any argument at all; but I do feel called upon to make a few remarks in consideration of what has been said by the commissioner from Massachusetts. I have no personal interest whatever in the matter. The trifling sum I receive for coming here will hardly pay the necessary expenses of my journey hither. I trust that the age to which I have arrived, the public services I hope I have rendered, will secure me in your opinion that I have no desire to misrepresent the matter.

"The honorable commissioner on the part of Massachusetts has not said one word concerning the treaty of 1838. That treaty has been approved; it has gone through all the forms of law, and has been ratified in such a manner by the Senate of the United States, that your father, the then President, Mr. Van Buren, proclaimed it as a law of the land, and it is binding upon all. I know it has been loudly complained of by you; I know that your best friends, the Quakers, have complained of it; I know, also, that they have endeavored, by every effort in their power, to prevent that treaty from being ratified by the President and Senate of the United States. They have taken counsel in the case; and notwithstanding all the

objections to it, upon the fullest and deepest consideration they have been able to bestow upon the subject, they have been induced to recommend the treaty that has been presented for your adoption. It is not for me, nor do I mean to give any opinion as to the validity of that treaty. It stands upon the statute book as the law of the land. In view of the disagreements, the difficulties, the lawsuits that may arise, I understand the Quakers here to say that it is their opinion that what they have advised is for your best interest. Having availed yourselves of their advice, you are to act freely; and if, upon the view of the whole subject, you are satisfied on the whole that it will be best for you, amen! But if, on the contrary, you decide to reject the contract, the government has no more to say, and I shall not complain."

The commissioner from Massachusetts replied:

"My Friends: I think it due to the gentleman who is appointed commissioner on the part of the United States, as well as to you and to myself, to say one word more. I am gratified that the views that I have entertained and expressed are so much in accordance with his, and I can fully approve of what he has said. It is true I did not mention the treaty of 1838; it was not because I had not heard of that treaty, but because I did not desire to give any opinion about it, or of its validity. I did say, and I now repeat to you, that the Friends will not intentionally deceive you. I may have an an opinion—a very decided one: you yourselves know if your contract was fairly made; on this point I do not desire to speak, but I wish you to understand that I desire you to be left free to decide on that point for yourselves. If you should think that a judicial trial of your rights with the Ogden Company on their claim, under the treaty of 1838, would be expensive and troublesome to you, it may be very proper for you to take this expense and trouble into your consideration, in determining whether it is best to accept the treaty and compact now offered to you."

The chiefs of the council requested the remainder of the day to themselves, that the several tribes might consult together. To which the commissioner on the part of the United States replied:

"I treat with the whole Seneca nation, and not with the separate tribes. I have no objection to their consultation, but I must have a reply of the whole nation, and not from the separate tribes. I would observe that, although my friend, the commissioner from Massachusetts, uses a little different language from me, our opinions concur. We are here from a great distance, and at considerable expense, but will adjourn to 10 o'clock to-morrow morning, and wish you would proceed as fast as possible in your consultation, and be ready to come to a decision when we meet you. And we hope you will not protract the council unnecessarily, but diligently use the time till to morrow."

The council then adjourned till 10 o'clock to-morrow.

Third day—afternoon, 4 o'clock.

The council again met at 4 o'clock this afternoon, when the commissioners and the committees of Friends, by invitation from the chiefs, attended.

The commissioner on the part of the United States addressed the council as follows:

"Brothers and Friends: I did not expect you to meet again until to-morrow; but, having been informed that you have not correctly understood

the commissioner from Massachusetts, we have returned that he may make an explanation to you."

The commissioner from Massachusetts then said:

"Friends and Brothers: I should be extremely sorry that any thing I should have said should produce injury or suffering to you. I have been informed that some of the chiefs now present have intimated that I said you might consider yourselves untrammelled by the treaty of 1838, and that the State of Massachusetts would defend you in your present possessions, unless you should now prefer to part with them. What I intended to say was this: the governor of Massachusetts sent me here to ascertain whether you clearly understood the bargain you were about to make; and that, understanding all the facts in the case, you should yourselves determine whether it was best for you to agree to the proposed treaty or not. I desired that you should take into consideration all the circumstances connected with the subject, and that you should then yourselves decide what was best for you to do.

"It is true, as has been stated by the commissioner on the part of the United States, that I did not speak to you about the treaty of 1838. The reason was, I did not intend to give any opinion on the validity of that treaty. I had heard that some of you believed it was fraudulently obtained; others thought differently. My government did not authorize me to give any opinion on that point. I repeat to you that on this subject I did not intend to give you any opinion. Your circumstances are well known to the Friends who are now present, and I refer you to them, as your sincere friends, for advice. That treaty exists: whether it be good or bad, I give no opinion; but I would say, if you want an opinion, why should you look to me for one? I was not sent to give it to you. You have friends here who are fully able and willing to advise you; they know more about it than I do. They know your wants; they can judge for you; and I now again refer you to them."

The commissioner on the part of the United States remarked:

"Your friends, the Quakers, at the council held with you in April, gave you their advice in writing. There may be some here present who did not hear that advice; do you desire again to have it read?"

A number of the Indians expressed a wish to hear it, and it was read and interpreted to them.

After reading this communication, Philip E. Thomas addressed the council as follows:

"Brothers! We have this day repeated the words that we spoke to you at the former council, when, by permission of the Great Spirit, we were favored to meet at this place; we have repeated these words to you as the deliberate judgment of your Friends.

"We did then believe, and we still continue to believe, that, by the treaties into which you had been drawn, before we had any knowledge of your situation, your condition had become one of great difficulty and embarrassment; and, after much and anxious inquiry into all the circumstances of your case, we could see no way by which you might procure relief but by accepting the proposed supplemental treaty that had been obtained for you, and by which a home is secured to you.

"I caution you that it will be unsafe to depend either upon Massachusetts or New York for protection. After what you have this day heard, you can have no hope of relief from them; and it is proper you should distinctly understand this. The people and authorities of those States are

friendly to you, and they sincerely desire your welfare; but so far as regards any ability to extricate you from your present embarrassments, they, I tell you, are wholly powerless; and I repeat, that even if they have the disposition, they are not able to do it. We live under a government of laws, and by these laws the powers of the government are defined and limited.

"The commissioner from Massachusetts has admitted that he does not come here to extend to you any protection, but to see that you clearly understand the treaty upon which you are now about to act. This he has avowed is the purpose of his visit, and strictly to this object will his mission be confined.

"Brothers! It is probable that this will be the last time I may ever have an opportunity to meet you in council. It is, therefore, my duty to speak plainly and frankly; and I now again tell you that you are surrounded by many serious difficulties; which not only threaten your personal safety, but eventually may even lead to the dispersion and ruin of your nation.

"I make these remarks that you may not be ignorant of my opinion as regards your real situation. I have devoted much of my time within the last two years to your concerns. Indeed, I believe I can say that I have given more of my attention to them than to my own affairs, and have had the opportunity of becoming thoroughly acquainted with them; and I now earnestly admonish you to beware of any precipitate or rash conclusion. Think well before you decide. For myself, I plainly declare that I see no avenue by which you can possibly escape from the perils that encompass you, but by accepting the proposed supplemental treaty. Believe me, that it will not be wise in you to depend either upon the State of Massachusetts or New York for any available protection. I plainly warn you not to do this, because it is important that you should, as regards this matter, remain under no mistake.

"Brothers! We have now opened our hearts freely and fully to you. You know us too well to doubt for a moment our sincerity, or to believe that we are capable of intentionally deceiving you.

"Brothers! It only remains for me to assure you of my fervent desires that the Great Spirit may continue to you the extension of his goodness and protection, and that he will so overrule your counsels on this momentous occasion, that your deliberations may result in the lasting good of your nation and people."

The delegate on the part of the legislature of New York then rose and said: "I appear here by virtue of a resolution of the senate, as a delegate from the legislature of the State of New York.

"Brothers! You know that this State has always treated the Indians with indulgence and humanity. We have enacted many laws for your protection and benefit, granted you liberal annuities, and paid them punctually; and we have never taken from the red man his lands in any other manner but by honorable purchase and a fair equivalent. The people of this State have deeply sympathized with you in your difficulties with the Ogden Company in relation to your lands. The legislature participated in this feeling; and while they had the subject under consideration the last winter, they were rejoiced to learn that a door had been opened by which you might escape from dangers which you and others thought awaited you, and they sent me to be present on this occasion to give you such assistance and advice as I could. But it is important you should understand the nature

of the aid which the State proposes to give, and that you should know that all she can do for you is to give you counsel, instruction, and advice, and enable you fully to understand the stipulations of the treaty which is now offered for your adoption or rejection.

"You are under the protection of the laws of this State, and to a degree you are liable to their exactions and restrictions, like our own citizens. Ours is a government of laws, and not of force. It is impossible to protect our own citizens against improvident contracts of their own making: when, therefore, it is said by our friend from Baltimore, Mr. Thomas, that the State is powerless to relieve you from the embarrassments of the treaty of 1838, he states no more than is true in relation to our own citizens. If that treaty should be pronounced valid by our own courts, it would not be possible for the State of New York to extricate or relieve you from the execution of it. If the State were disposed to do so; if we should rise in arms to protect you in the possession of your lands, we could not do it—we are but a handful when compared to all the people of the United States who would come against us.

"You have already been told that it is not the business of the commissioners to give you legal advice, and to declare whether the treaty of 1838 is valid or invalid. These benevolent gentlemen who have espoused your cause, and devoted themselves with such untiring perseverance to your welfare, and to your relief from this embarrassment, may truly and emphatically be styled your friends and the friends of humanity. They have told you that they have taken the best legal advice the country affords; and that the result of these inquiries is, that the treaty being executed according to the forms of law, it is considered doubtful whether it can, by the courts, be declared void. I do not say that this is my individual opinion. This is a very grave question, upon which I am not willing at present to hazard an opinion; and if I should, it would be entitled to very little consideration if it should differ from the very high authority which they have obtained.

"If you deem this question important to your present deliberations, and are not satisfied with the advice you have already had on the subject, you ought to deliberate further, and take the counsel of men learned in the law for yourselves. I hope, brothers, that your deliberations will result in unanimity at present, and in your final happiness and prosperity."

The commissioner on the part of the United States addressed the chiefs as follows:

"Brothers! We shall meet again to-morrow. In the mean time I beg you to reflect on what I say. There are a great many interested white persons who may state facts so as to mislead you. I advise you not to listen to them. You have heard the advice of your friends, the Quakers, who, ever since the days of Mr. Penn, have been the unwearying friends of your nation. Let their words and counsel sink deep into your hearts. It comes from men who can never, who will never say aught to deceive you; who have labored and toiled, and made a long journey in the most inclement weather, to the hazard of their health and life, to give you their counsel."

John Black Smith, of the Tonawanda reservation,* "wished to say to

* The Tonawanda Indians reside on Tonawanda creek, south of lake Ontario. They have never been under the care of Friends, nor have they admitted a missionary into their settlement, and but few of them have made any profession of Christianity. A part of their clan reside in Upper Canada, and it is supposed that if compelled to remove, many of them will join their friends there in preference to emigrating either to the west or settling on the Cattaraugus or Allegany reservations.

the commissioners that he came in late, and had not heard the whole of the proceedings of yesterday and to day, but understood that the commissioner from Massachusetts made a speech this morning, and this afternoon withdrew some of his remarks: he is afraid the commissioner has been influenced by the other commissioners and Society of Friends. There is something in this that he does not comprehend. The commissioner from Massachusetts stated that he came to protect the Indians and see justice done. We have been since told that Massachusetts has no power to protect us. What use is it for him to come here if he has no power? In former times, when the old chiefs made treaties with the Ogden Company, they always saw a commissioner from Massachusetts in behalf of the State. We have always thought they had power. He (the commissioner) reports the proceedings to the governor, who sanctions and makes them legal. We can't reconcile the two speeches. We understand, also, that there is a commissioner from New York. Our friend from Baltimore says he is our friend, but the commissioner has no power to protect the Indians. We are sorry these remarks are made on behalf of New York and Massachusetts. We think this State has a kind disposition towards the Indians."

The commissioner from Massachusetts: "My friends! I am sorry there should be a misunderstanding of any remarks I have made. If I understand my own remarks, there has been no change in the thoughts expressed to you. I have taken back nothing that I have said before, and cannot now do it. When I first addressed you I said nothing about the treaty of 1838. When the honorable commissioner on the part of the United States addressed you, and seemed to desire that I should have said something about that treaty, I told you I had not done so because I wished to give no opinion whatever about it. I said I hoped you would freely, fully, and without restraint, consider the whole subject; and if it was desirable for you to accept the proposition, you would do so, and Massachusetts would be satisfied. If, on the other hand, on consulting your friends here—who are your true friends—you should think best not to accept this treaty, then reject it. In saying this, I hope you will understand that I wish you not to keep out of the case the *consideration* of that treaty—you ought not to forget it. I hope you will not think it hard that I do not give an opinion on its validity.

"The governor of Massachusetts did not send me here to express such an opinion; I do not know the facts in the case. Some have asserted that the treaty was obtained by improper means; others say differently. I do not know the facts, and therefore I cannot give any opinion upon the subject. It has been stated that in all the treaties Massachusetts has had a commissioner here. Massachusetts had a pre-emption right. In the sale of it she reserved a right to see that the Indians were dealt with fairly and justly. If, in the present treaty, the commissioner from Massachusetts should think you were dealt unfairly with, and should withhold his approval, everybody would consider it a nullity, because Massachusetts reserved a right to have a voice in these transactions. Now, if understanding the facts, you think it best to make this contract, I am ready to approve of it on the part of Massachusetts. What Mr. Thomas means by saying that Massachusetts has no power, is, that the power of Massachusetts extends only to the lands lying within the State of Massachusetts, and your lands lie not in that State.

"The courts of Massachusetts have no more power here than those of any

other State or nation under heaven. You see that the agent for Massachusetts did give his assent to the treaty of 1838—whether right or wrong, he did do it. That assent was submitted to the governor and council of Massachusetts, and by that body was accepted and approved. It will therefore follow that, as respects the treaty of 1838, the gentleman who addressed you from Baltimore is correct in saying the Commonwealth of Massachusetts is powerless here."

The commissioner on the part of the United States:

"Brothers! I will explain one fact to which the gentleman has not adverted. All the lands lying between here and Herkimer were, at the time referred to, unsettled lands—not a soul living on them except Indians. There is one chief here (Governor Black Snake) who knows these facts: all the lands from here to the German flats were inhabited only by Indians at the end of the revolutionary war in 1783. These lands were called 'Crown lands,' and were claimed to belong to the King of Great Britain, and were granted by him to those who had purchased, by license, from the Indian nations. When the American people proclaimed and maintained their independence, and a treaty was made between us and the King, George III, these lands were relinquished to the United States, and the line run through the middle of lake Erie and Niagara river on the west. Massachusetts, who had a charter from the King for all the lands from the Atlantic to the Pacific ocean, maintained that by these grants all the lands west of the settled part of New York belonged to that State. It became a question between New York and Massachusetts. It was settled in 1786 by a treaty at Hartford, Connecticut, whereby New York agreed that Massachusetts' right should commence one mile west of Geneva or Seneca lake, and take in all west of that in the State, with the exception of one mile on Niagara river. Massachusetts ceded the right of jurisdiction to this territory, retaining the right to buy of the Indians. In that contract, made at Hartford, between New York and Massachusetts, this very right is recognised, in behalf of which the commissioner from Massachusetts appears, to see that justice is done, and that every thing is done with your free consent. And now, my friends and brothers, with what I have said I take leave of you till 10 o'clock to-morrow, with the hope that you will proceed, and bring the subject to a close as soon as possible, but with due deliberation. Your friend from Baltimore stated that this State could do nothing for you. He was right; the State of New York, as he has told you, is powerless. The Ogden Company's right of pre-emption comes from Massachusetts, which has always done justly; but *they* can do nothing in this case, for they have no power at all."

[As the council was about to adjourn, a desire was expressed by a majority of the chiefs to extend the time mentioned for adjournment; the council was accordingly adjourned to fifth day morning, at 10 o'clock.]

Fifth day—3 o'clock, p. m.

Since the adjournment on third day, up to this time, the chiefs were in council together; they now expressed their readiness to meet the commissioners and continue the business of the meeting.

Griffith M. Cooper addressed the chiefs as follows:

"Brothers! It has appeared to our minds that our services are about drawing to a close, though a fact attends the circumstances that to me is

personal, and in which my reputation as a man is involved. You recollect, my friends, that some two or three years since you sent a deputation to consult the Society of Friends, wishing us to interest ourselves in your behalf; and you also recollect that at that time, and subsequently, you requested us that after we should have done all in our power in relation to this treaty matter, we would honestly and candidly so inform you. From that period to the present we have been laboring for you indefatigably, and we came here last month to inform you of the result of our labors. We told you candidly and honestly, then, that we had accomplished all we could for you. The present compromise you are now deliberating upon is that result. At the time when the proposed treaty was laid before you, it was explained, I apprehend, to the understanding of every chief who heard it. It would be a reflection upon you for me to suppose you did not understand it; and after that instrument was read and explained to your satisfaction, a copy was laid upon your table; and you also recollect that after your Friends left you I remained with you six days. Therefore you had sufficient time to deliberate upon every article of that instrument. The result was, that out of eighty one chiefs seventy nine signed the paper, saying to the Secretary of War that you would accept that treaty as exhibited to you; but, at the same time, you asked of the government of the United States to make some alterations for you; but if the request could not be complied with, you would take it as it was. I now hold in my hand a copy of that letter to the Secretary of War, to which seventy-nine attached their names. You requested I should be the bearer of the same, and deliver it to the Secretary of War, and that I should interest myself in order to accomplish the alterations you desired. The request I complied with. I went accordingly and interceded, with all the influence I had, to effect these alterations. Now, my friends, I am coming upon a subject in which I am personally interested. I apprehend that my honor and integrity as a man are concerned. The Secretary of War expressed a regret that the time had not been fixed on at an earlier date; I told the Secretary that this was a deliberate act of yours, without any compulsion, and that the chiefs of the Seneca nation had never deceived me; that I had confidence they never would, and that I would pledge my word for the faithful performance on your part of all that you had agreed to. I considered that I had sufficient reason to make this pledge. I had been connected with you eight years, and you had never once deceived me, and this gave me confidence in you. You will also recollect that at the time the contract was explained to you, you were informed that unless you complied with the conditions, the government would not send a commissioner here; that it would be attended with great expense; but that if you did accept it, the government would send a commissioner on its part, and also Massachusetts. In this paper you requested the Secretary to send a commissioner on the 16th of May, or at its earliest convenience, to ratify this treaty. Now, my friends, I appeal to every individual of you if you are not personally implicated with me. Inasmuch as I consider my word as sacred as my life, I shall hope you will consider your word as sacred as I do mine. I have said in the commencement it seemed as though our labors were drawing to a close; because, as we had understood that there is a great division among those who had signed the contract, I was led to believe you would not fulfil the word I had pledged for you. Now, if you have altered your minds on this subject, I don't want you to involve me in the difficulty. I have felt, my friends, at many times willing, if permitted

through kind Providence, to devote my life to your service. Now I wish to ask you, my friends, one question. Suppose you do not think proper to fulfil the pledge you have made, and the pledge I have made for you; can any of you reasonably suppose I can go hereafter to Washington on a mission on your behalf? What would the government say? Why, 'You have been here once before; you have put confidence in the Indians; they have deceived you, and you have deceived us, and therefore you can retire!' That must be the reply. They would never negotiate with me as your agent, nor do I apprehend they would negotiate with you. I must confess, my friends, that within a few days I have felt much anxiety on account of my character and reputation, and also on account of yours. I want to take up as little time of the council as possible; but I thought proper to make these few remarks, and leave you to act according to your own counsel and discretion."

John Black Smith "understood that the compromise (the letter to the Secretary of War) was written by an individual here, (Mr. Cooper;) and we understood from our Friend that the Secretary of War was a great man, and the Indians were to sign that paper, when it was drawn, to ask the Secretary to appoint commissioners to come here and make a treaty."

G. M. Cooper: "I call upon every chief to say if he did not understand it as I have now explained it."

Governor Black Snake "wished to say a few words to the commissioners and the Friends. Before you came in we understood you (the Friends) were about retiring. We have thought best to invite you in once more, and hear you speak. You have now explained the matter. You have related the circumstances, as they took place at the last council, all true; we did sign the paper and all its contents—it was understood by those who signed it; perhaps his nephew (Black Smith) did not understand it. I hope the Friends will stay a while and have the matter explained. I hope that these misunderstandings will all be made plain. There are many who wish to abide by that paper they have signed. I hope you will stay awhile and be easy in your minds. These remarks came from the Allegany chiefs only. The chiefs from Cattaraugus and Buffalo will speak for themselves."

G. M. Cooper remarked, "that to correct an impression which may have gone abroad that Black Smith signed the letter to the Secretary of War, he would say that Black Smith did not sign it."

Seneca White, on behalf of the Buffalo chiefs: "Brothers, the Friends! You have finished the friendly remarks you have desired to make with regard to the subject of the compromise now under consideration. You wish an explanation of the understanding of that paper which we have signed, and of which you were the bearer. They (the chiefs) wish to know who was to blame—you or they. They wish to explain their views upon the subject. It is true you came here with the amended treaty. You read it in council, and made us understand all its different articles. After the explanation was made, some of the Friends returned home; but you, Mr. Cooper, remained. The chiefs discussed that treaty, and came to a conclusion that they would accept it; but it was not exactly such a one as they would like to make. Therefore the statements made by our brother, Mr. Cooper, are in all parts true, as understood by us. It is also true that the chiefs signed the paper. We then concluded we would make the compromise; it was so decided, and the statement of Mr. Cooper is true; the Indians approved of all the proceedings of the Friends, and asked their as-

sistance. They have full confidence in the Friends—they have assisted us much, and have not alienated our affections. We do not wish to have our friends withdraw, but hope they will remain and assist us in making the compromise. We are now in council; all the proper officers are here—the commissioner on the part of the United States, and also for Massachusetts and New York—and we do not think our friends ought to withdraw, as we have now arrived at the proper time to make the treaty. We wish to say the Society of Friends have done their best, and assisted us a great deal, and ought not to be censured. It is we that are to blame—we are tardy—we do not progress so fast as we wish. The difficulty does not lie with you—we have some difficulty among ourselves. What people say or do, does not influence us. We wish the question may be settled, and no difficulty hereafter. We do not think that any obstacles or delays ought to break up the treaty and compromise."

Samuel Gordon, a chief: "About a month ago, the Friends came here with an amended treaty. They called a general council of the four reservations, and we met as we do now in this place. They read the paper, and we examined all its parts. They said we should have an opportunity to ask questions, and they would explain. It was so done. We asked a great many questions of different parts, and they explained. They continued in council six days, until they supposed every one understood it. We then came to a conclusion, and wrote that letter, which was the language of the council at that time. The remarks of Mr. Cooper, in regard to the proceedings of the last council, are true. All he has said is true; neither did he compel us to sign. The paper was read for the inspection of the chiefs, and they discussed and decided on it.

"The difficulty is among ourselves. We disagree in small matters. I will state some of those difficulties. The compromise says the Indians shall give up two of their reservations. They, on the other hand, do not wish to give them up; they cannot consent; they wish the compromise to be in this way. They would take the same number of acres that comprise the Allegany and Cattaraugus reservations, divided among all the reservations. That is the desire of the people, as well as the chiefs. They wish to stay on their own reservations. The great desire of the chiefs is to make a compromise so that the people will be satisfied. They fear, if all are concentrated on two reservations, there will be difficulties and jealousies among themselves. That is the main difficulty. They want to make such an arrangement that all difficulty hereafter shall cease. They wish now to make a compromise with the Ogden Company. Cannot they compromise so as to keep the same number of acres contained in the Cattaraugus and Allegany reservations divided among all the different reservations? They wish to satisfy the people of the Seneca nation. They want to consider and see if they can compromise so as to satisfy the people. It is not the wish of the Cattaraugus chiefs that the Friends withdraw from us; but we hope they will take hold with us, and carry through the negotiation. We have confidence in them; we believe they love us, and will do all they can for our benefit. We should exceedingly regret if our Friends should conclude to leave us. We, the Cattaraugus chiefs, beg them to remain, and not withdraw, but go on and assist in the negotiation. We hope they will have patience. It is by no means uncommon, in matters of this kind, to meet with obstacles and difficulties of various kinds. This is an important affair, and, to the Indians, of great moment. We are not far

apart; we cannot agree at once; but we believe in a little while we shall come to a united conclusion."

Jimmy Johnson, a Tonawanda chief, observed: "I would say a few words to Mr. Cooper, on behalf of the Tonawanda chiefs. I understood the paper was an invitation for a council; that it was written by Mr. Cooper. He requested the chiefs to sign it, because the Secretary of War was a great man; therefore they signed, with the understanding that when the council should meet they would have an opportunity to negotiate for a compromise."

The commissioner on the part of the United States: "Brothers! I came here under restricted power. I had not power to negotiate at large. The Secretary of War informed me that the basis or foundation of a treaty was already agreed to by you, at the advice of your friends, the Quakers, acting in your behalf with the Ogden Company; and he told me, in a letter he wrote to me, that there had been a long negotiation between you and the Ogden Company; and by his efforts in aid of your friends, the Quakers, these were the very best terms they could possibly obtain for you. And he thought he had done great things for you by the new treaty, by preventing the necessity of all the Seneca nation emigrating and leaving the State of New York. You are already informed, by the treaty of 1838, that you are, in three years, to remove and go beyond the Missouri river. This he believed would be to many of you very hard and disagreeable. He therefore interested himself in your behalf to get the very best terms from the Ogden Company, with the aid and counsel of your friends, the Quakers. Now, as a private individual, I should be glad if you could be accommodated exactly as Seneca White proposed; that is, that you might remain on your old reservations. But remember that you have made a treaty; that treaty has been proclaimed to be the supreme law of the land; and the Secretary of War believes you can never get rid of that treaty but with the full assent of the Ogden Company. You seem to think, however, from what Seneca White has said, that the Ogden Company will give you better terms. Now, Messrs. Ogden and Fellows are here as trustees of the company to whom you sold the right of the reservations, and will give you an answer for themselves here publicly, or in any way you see fit. Let me say one word farther. Many of your best friends think that instead of its being an injury to you to be concentrated on the Cattaraugus and Allegany reservations, it will be much better for you. And your friends, the Quakers, as I understand them, intend to superintend and afford succor, to educate you, and make you a much greater people than you now are. Messrs. Ogden and Fellows will answer for themselves; and if they will comply with your wishes, it will be satisfactory to me. The Quakers could get no better terms in your behalf."

Seneca White "was very happy to hear of the limited instructions of the commissioner on the part of the United States. He understood, at the close of his remarks, that the trustees of the Ogden Company were present, and would answer for themselves. It is the wish of the chiefs that they would answer the questions. We put the question to them, Will they consent to this compromise, and grant the wish of the chiefs?"

T. L. Ogden. "Brothers! I am here with my associate, Mr. Fellows, to represent what is called the Ogden Company. In speaking to the appeal which you have made to us, it may be proper for me to review briefly the history of the proposed compromise which has been offered to you. I

should commence with the fall of last year, shortly after the present Secretary of War came into office.

"I live in the city of New York; and about that time I received a letter from the Secretary of War informing me that he had received a letter from some of the Friends in Baltimore proposing such a compromise as would satisfy you, and ought to satisfy the pre-emption company. The Secretary of War requested I should proceed from New York to Baltimore, to see and converse with them. I did go to Baltimore, and had an interview with P. E. Thomas, who is now present. I asked that Friend what he had to propose. I stated that I would listen to what he had to say; that I had no right to compromise the rights of the company, but would hear any proposition he wished to make. He answered he was not authorized to speak for you; but he was your friend, and had no doubt you would approve anything he and the society should agree to with us. Mr. Thomas then made a proposition to me on your behalf, which he desired me to lay before the pre-emption company. But his proposals were, as I considered, so at variance with the rights of the company, and so exclusively in your favor, I told him it was improper for me to listen; and if these were his final propositions, the negotiation had better cease at once. He then desired me to go the next day, and he would go, and see the Secretary of War, and ascertain if we could not agree. We accordingly met at Washington, and had a long conversation with the Secretary of War, and some progress was made towards an adjustment. I asked the Secretary what the government would do? Whether it would carry out the treaty with those Indians who would emigrate? He proposed to satisfy those who wished to go west and protect those who remained. Such propositions were therefore made between us, and discussed at large; and I returned to New York in order to learn the opinion of the company I represented. After that, a consultation took place between the Secretary, acting for the Friends, and myself acting for the company. The Friends were very tenacious of your rights and made many proposals, some of which the company could not and would not accede to. Letter after letter passed between us in relation to this matter, and finally an arrangement was concluded. I then went back to Washington, and had it all reduced to writing, in the form of a treaty, which is now submitted to you. The whole matter was thus concluded by the Friends, acting for you, and the pre-emption company, acting for themselves. In the whole course of the transaction the Quakers, who do not hold to fighting, have fought your battle most valiantly. They have advocated and argued your case with a pertinacity and zeal which alone has produced the result of the new treaty. The conditions of the compromise having been agreed upon, the next step was to ascertain whether you would agree to it. The Society of Friends undertook to lay the subject before you. The trustees of the pre-emption company told you that when you gave your assent to it they would agree to it. A few days since I received a letter from the Secretary informing me that a letter of assent had been signed by seventy-nine of your chiefs, and the time had now arrived for the pre-emption company to come and consummate the agreement. Mr. Fellows and myself have accordingly come for that purpose. You now inquire whether we can enter into a negotiation, and alter the terms of the contract. My answer is, we come here not to enter into a new treaty, but to consummate the one already agreed upon. Mr. Fellows and I represent a great many persons who are interested, who have authorized us to con-

clude this treaty, but have not authorized us to make a new one. You have expressed a desire to remain on the different reservations as you are now situated. It is not for me to advise you as to the wisdom of this arrangement. It would, perhaps, be more for the interest of the pre-emption company, as it would save us the expense of buying your improvements. But that would be a departure from the commission we hold. I believe it would be much to your disadvantage; and I believe, also, that the government, which wishes to concentrate you as much as possible, would never agree to it. It would afford me great pleasure to gratify your wishes on this point; but we do not feel authorized to deviate from the compromise which has been made. It is now for you to conclude whether the agreement we have come here to execute will be executed or not. We have thought that the arrangement was highly beneficial to you, inasmuch as we have, for the sake of peace, relinquished two of the reservations, and have purchased the improvements of such as may wish to go. I need not say to you, brothers, if you reject the compromise you will stand on the rights you have under the treaty of 1838. What your rights are, it is not for me to tell you: what our rights are, I think we understand. I fervently hope the Great Spirit may dispose your minds to come to a right decision in the matters now under consideration."

John Black Smith said "he understood the compromise occupied them several days, and they had found none better that could be made; that if the contract was altered, the United States would not consent to it."

T. L. Ogden replied, that "he thought the government would not consent to the desired alteration, as it was its policy to concentrate the Indians, as much as possible, in one body."

Philip E. Thomas then addressed the council as follows: "Brothers! It has been stated to you that your Friends, who are attending this council as representatives from the four yearly meetings, believing their services to be now drawing to a close, were preparing to withdraw from you; they were about to do this, but had not come to the conclusion from any abatement of friendship for you, or of solicitude for your welfare. They supposed that they had communicated to you all the information and counsel that it would be in their power to give; and being far distant from their homes, and detained much longer from their families than they had expected, they were desirous to return as soon as they could safely leave you. Perceiving, however, from what has been here expressed, that it is your wish they should remain longer with you, they have concluded to do so."

Upon the expression of these remarks, a general feeling of satisfaction appeared to be diffused over the council.

The commissioner on the part of the United States: "Brothers! We now propose to leave you, and will meet you again to-morrow, at 10 o'clock. You have heard from Mr. Ogden a full explanation of his power, and of the mode and manner in which the treaty that has been proposed to you has been brought about. You have heard that you can expect no alteration of the treaty, in compliance with a wish expressed by several of the chiefs. Therefore the question is reduced to a single point—whether you will remain by the treaty of 1838, and abide its consequences, or accept this modified and amended treaty. The Secretary, as I told you before, expected there would be no alteration in the treaty which you agreed to at the meeting in April, except in one particular; and that particular was this: you are to remain upon your reservations, and keep your improvements, for two years

instead of one. I have ventured, in one other particular, to alter the treaty—not in its spirit—with the advice and consent of your friends, the Quakers, in full belief that, if he were here, he would approve of it, viz: giving those who may wish to go west from Cattaraugus and Allegany, compensation for the improvements of their lands, the same as those who go from Buffalo and Tonawanda."

Council adjourned.

SIXTH DAY—10 O'CLOCK, A. M.

The council met pursuant to adjournment.

N. T. Strong rose and said, that he had been instructed to say, on behalf of the emigration party, that they were ready to vote upon the question. He also gave their views, at considerable length, of the treaty of 1838, and concluded by expressing their approbation of the present arrangement.

The commissioner on the part of the United States: "Brothers! We have heard the sentiments expressed by Mr. Strong, in relation to the emigration party. They have acted honorably. They say they are still disposed to emigrate, and execute the treaty of 1838; but are willing, by way of accommodation, to sign the treaty proposed. You have had several days to consider the treaty we have had under consideration. I am now ready to hear what you have to say. I meant to give you full time for deliberation, that you should not hereafter complain that you were precipitated into this new treaty. If you are now ready, I will hear what you have to say. Those who are now ready to give an answer to the proposed treaty, yea or nay, please to rise."

Black Smith "appealed to the commissioner from Massachusetts, and the delegate from the legislature of New York, to see that the business was done fairly; he believed the emigration party (that is, the portion of the Indians who were in favor of the treaty of 1838, whose views Mr. Strong had expressed) had no right to vote on the question."

The commissioner on the part of Massachusetts: "I am requested to state my views upon this subject. It is contended that the emigration party have no right to vote upon the question, whether you are ready to give your final decision upon the treaty. They have the same right to vote as any other part of the council. They have the same interest on this subject that the other members of the council have."

Black Smith: "They expressed their opinion through their orator; is it right for them to vote twice?"

The commissioner on the part of Massachusetts: "They did not vote; they only expressed an individual opinion. This is to be a vote of the whole. There is no difference as to the rights of the chiefs. All will have the right to withhold or to give their assent to the treaty."

Black Smith: "Then the remarks made by them were not a decision?"

The commissioner on the part of Massachusetts: "By no means."

The commissioner on the part of the United States: "I will answer the remarks of Black Smith. He objects to the emigration chiefs voting, because they have given an opinion. I came to treat, and my commission is with the chiefs and headmen of the Seneca nation. I have no authority, nor would it be right or proper for me, to say that any of the chiefs had no right to vote upon this question. As well might they object to the Tonawanda chiefs, or to Black Smith's voting, because he had expressed an opinion

against the treaty. It is a fundamental principle with the whites that a majority shall govern. Every chief having the right to vote, it is not in my power to unmake them chiefs, and deprive them of that right."

Black Smith replied: "That, being as old a man as the commissioner on the part of the United States, he wished to answer him. You stated that what they said was not their decision, but that they might vote after giving that opinion. I do not say they ought not to vote. The question was, after they had expressed their opinion, were they to vote again? You said, suppose the council should say Black Smith should not vote because he had expressed an opinion. I think it is very curious if I should not have a right to vote."

Before the question upon the acceptance of the treaty was finally taken, a motion was made by one of the Cattaraugus chiefs, that, in consideration of the losses and inconveniences to which those families would be subjected that might, by the provisions of the treaty, be obliged to remove from the Buffalo and Tonawanda reservations, the nation would, for four years, release to such families so removing the whole of the annuities that might accrue for the sale of the lands now to be relinquished. This proposal was approved and ratified by the vote of the council, with but one dissenting voice, and it manifests a liberality and love of justice highly honorable to the Senaca nation. The question on the treaty being executed was now taken, and decided in the affirmative: ayes 56.

The delegate from the legislature of New York: "As to the privilege of voting, I entirely agree with the commissioner from Massachusetts. What was said by Mr. Strong, in behalf of the emigration party, was only their opinion of the treaty, and not whether they were ready to decide. If any chief had said he wanted further time to deliberate, he would have had a right to vote upon the question put. This is precisely the way the whites transact business. The vote was a strong one. I hope you will be satisfied with the decision, and acquiesce in the will of the majority."

G. M. Cooper said: "Now, my friends, I want to say a few words to you. Notwithstanding there has been a majority in favor of the treaty, some think they are not obliged to sign the treaty. They say that yesterday certain questions were asked, and they have not had time to deliberate. They want till 3 o'clock to consider. This is reasonable, and the time desired should be allowed."

The commissioner on the part of the United States: "You have already voted, by a large majority, that you were ready to answer; but, not to precipitate matters, and to give you full time, we will adjourn to 3 o'clock."

3 *o'clock.*—The council met pursuant to adjournment.

The commissioner on the part of the United States said:

"Brothers! We have met you again according to adjournment. You have declared yourselves, at our last meeting, ready to proceed with the business which has called us together. The treaty now to be laid before you has been carefully compared with the original, which has been read to you. The commissioner from Massachusetts, the Senator from New York, your friends the Quakers, and myself, have all examined it, and found it correct. If you have confidence in us, and in your friends, I suppose it will not be necessary to read it again to you, and we shall proceed to the execution of the treaty."

The Allegany Indians expressed a wish that they should have the same

privileges extended to them as had been extended to the Cattaraugus Indians, which were that those who should emigrate should be paid for their improvements. The commissioner on the part of the United States inquired "if there was any objection on the part of the Buffalo and Tonawanda Indians to this proposition?" Only 17 votes appeared against it, and the proposal was agreed to.

Explanations were made showing that the Indians who may emigrate to the west are not to have any voice in the sale of the Cattaraugus and Allegany reservations when a sale shall be made, but that they will then receive their proper proportion of the proceeds.

The commissioner on the part of the United States: "Messrs. Ogden and Fellows have now executed a deed conveying to the Seneca nation the two reservations of Cattaraugus and Allegany. Will you now come forward and sign the treaty?"

A chief inquired "if the company would permit the people on the Tonawanda and Buffalo reservations to have fire-wood during the two years they might remain, and take away that which is already cut?" To which Ogden and Fellows replied in the affirmative.

Daniel Twoguns, one of the chiefs, asked "whether a large quantity of wood and lumber, which was already cut and sawed, might be removed?"

Ogden and Fellows: "The Indians may take away and dispose of all that is cut."

Twoguns: "I am enclosing a field of 97 acres. Will this improvement be paid for?"

Ogden and Fellows: "That is provided for in the treaty. It will be paid for."

Twoguns: "Amendments have now been made to the treaty, although the commissioner said, when the subject was first opened, that he was restricted to the treaty as it was sent here from Washington, and not five minutes afterwards he himself proposed an alteration."

The commissioner on the part of the United States: "Brothers! There has been no departure from the spirit of that treaty. The Indians, at their own request, have, by the alterations, been allowed to sell their improvements on the Cattaraugus and Allegany reservations, in order to enable them to remove, if they should wish to emigrate."

John Black Smith: "Brothers! We shall this day witness the consummation of the object of our visit. I have but to say I dissent in toto, and do not consent to the compromise. My opinion is, that it is the same in nature as the treaty of 1838. That treaty was made before it was brought into council, and the present one was also made before it was brought here.

"Brothers, the pre emptioners: I will not say nor admit that this is a compromise treaty. Heretofore, in negotiations for the sale of our lands, it was the custom of the chiefs to say what lands they would sell: here, others say for them. This is a forced treaty. I don't know what to call it. The Tonawanda Indians have never signed any paper or deed for the sale of their lands. I did not approve of any sale, and do not now approve it. I shall not yield one inch in this matter."

The commissioner on the part of the United States: "I hope Black Smith does not impute to me any thing dishonorable or unfair. If I know the feelings of my own heart, I was prompted to undertake this service by my regard for the Indians, firmly believing that the real friends of the Indians, the Quakers, had done every thing they could to obtain, and had obtained,

the very best terms for them that they could. And as to any force, it is out of the question. No force has been used. The treaty has been submitted fairly, and ample time has been had to deliberate. In addition to myself, I can add that the commissioner from Massachusetts has been actuated by the same friendly feelings, and has been careful to explain to you the terms of the treaty. In cases like the present, it is customary, it is necessary, to prepare the papers beforehand."

A question having arisen whether the Indians could use the timber, the commissioner from Massachusetts said:

"You ought to understand that, by the present agreement, you have no right to cut wood on the land you cede. It is agreed, however, by the Ogden Company, that all the wood and timber already cut and belonging to the Indians may be taken by them. The company also concede the right to take for two years wood for fuel, fencing, and repairs of buildings; beyond this the privilege does not extend. Messrs. Ogden and Fellows also say that whatever timber belongs to the Indians on the Cattaraugus and Allegany reservations, and has been seized, shall be restored to them."

William Jones, a Seneca chief: "Some have cut saw logs for buildings; may they be taken by the Indians, for sale?"

Ogden and Fellows: "They may."

The treaty was then signed by 55 chiefs—16 refusing.

John Black Smith then rose and said, that in the commencement of the proceedings the commissioner from Massachusetts said that when all the chiefs should sign the treaty he would approve of it on the part of Massachusetts; and as the chiefs to the number of 16 had refused to sign it, he appealed to him to withhold his assent. The first part of his speech was not taken by the reporter. The conclusion was as follows:

"I wish to thank the honorable commissioner from Massachusetts, and also the honorable commissioner from the Senate of New York, for what you have done for us. We believe you are all well disposed towards the Indian nation, and have protected them since the first treaty was made with them. You are sent here by your governments to see that justice is done to the Indians, and that they are not wrongfully deprived of their lands. One word to the commissioner on the part of the United States: None of the Tonawanda chiefs have signed the new treaty. We have unanimously rejected it. From the beginning of this negotiation we have never signed any treaty. Two gentlemen who are now present can testify that they have endeavored to induce us to sign papers; but they never could. We have never received a cent from the Ogden Company. We do not expect they will take our lands away from us; we have never consented that they should. We have 15 chiefs, none of whom have ever signed, and 615 inhabitants. They love their children; they love their nation. Now, we say to you, commissioners, we have the same mind, and shall continue so hereafter. We shall consider it a great injury, if at a future day any one should forcibly take away our rights."

The commissioner on the part of Massachusetts: "In one important particular Black Smith has misstated the remarks made by me at the opening of the council. I did not say that the consent of Massachusetts would not be yielded before the *unanimous* agreement of the council should be given to the treaty. My remark was in substance this: That Massachusetts had sent me here neither to persuade the Indians to sell their lands, nor to dissuade them from it, but to see that the Indians were made fully acquainted

with the nature of the contract proposed to them; that the operation and construction of that instrument should be made plain to their understandings; and that when they should have fully considered the offers made to them, and all the circumstances under which they were placed, and should deliberately agree to the terms of a treaty, the consent and approbation of Massachusetts would be given to the contract. To me it seems that these conditions have been now fulfilled; the terms of the treaty before you have been fully explained, and appear to be perfectly understood by all of you. It has received the assent, freely given, of a large majority of the Seneca nation here, represented by its chiefs. I can now see no reason why the consent of Massachusetts should be withheld.

The delegate from the senate of New York: "The time is so far spent, that I can say but a few words. It gives me great pleasure, representing the State of New York, to know that you are satisfied that the people of New York are the friends of the Indians. They have ever heretofore been their friends, and will, I trust, ever continue so. I have had great satisfaction in witnessing the proceedings of the council. Every thing, as far as I can see, has been done fairly and honorably. The result has been a treaty. It has been duly executed according to law, as we understand it. We understand that you are a single nation, and every part is under the control of the whole, and that all are bound by the acts of a majority, the same as white people. We hope, therefore, the Tonawanda chiefs will acquiesce, and go on to the reservations which this treaty restores to them. And we hope and believe they will there enjoy more happiness and prosperity than they can in their present state."

Benjamin Ferris: "Brothers! It was our concern for the happiness and welfare of your people that brought us here on the present occasion. If we had not thought that your best interests would be promoted by the treaty that has been offered to your consideration, we should not have been here at this present time. But it appeared to us, that if this compromise should not be accepted, you must inevitably be driven from your present homes, into the wilderness beyond the Mississippi; that sooner or later this calamity must overtake you. Under the present arrangement, the power to remain on the lands, descended from your forefathers, will be placed in your own hands. The reservations restored to you are rich and fertile, and, with due culture, are amply sufficient for the comfortable sustenance of your families. We greatly desire your prosperity, and that you may live on them in peace and harmony together.

"Brothers! We pray that the Great Spirit may so influence and direct you in all your movements, as to secure to you the benefits to be expected from a wise decision in this case, and we desire for you the blessings of happiness in this world, and in that which is to come. And now, brothers, being about to leave you, perhaps to see you no more, we bid you an affectionate farewell."

After some appropriate remarks from the delegate from New York, in which he bore testimony to the fair and honorable manner which had characterized the present negotiation, the commissioner on the part of the United States addressed the chiefs in conclusion. He spoke at considerable length, advising them to cultivate a spirit of harmony among themselves; and in conclusion, bade them farewell, invoking the Divine blessing upon them. When he had concluded, the council adjourned *sine die*.

In concluding this narrative of the late proceedings of Friends, for re-

storing to the Seneca Indians a portion of the lands owned by them in the western parts of the State of New York, it may be interesting to the younger portion of our members to be informed of the circumstances under which this concern originated in the Society of Friends.

Very soon after the revolutionary war, the settlements of white people began rapidly to extend, and in a few years to encroach upon the Indian tribes bordering on our western frontier. Previous to this time, the Seneca nation was separated from the white population by an extensive wilderness, and hitherto they had felt but little inconvenience from them. As these settlements, however, approached the Indians, they found that the game on which they had been accustomed to depend for food was fast leaving them; and, becoming greatly distressed, under the apprehension that their means of subsistence would soon fail, they made an earnest appeal to our Society, as their ancient and steadfast friends, for assistance under the difficult circumstances which now began to press upon them.

Several of these applications are still preserved. Among them we find one from Corn Planter, a distinguished Seneca chief, dated in the year 1791, in which he says:

"Brothers! The Seneca nation see that the Great Spirit intends they should not continue to live by hunting, and they look round on every side, and inquire who it is that shall teach them what is best for them to do. Your fathers dealt honestly by our fathers. They have engaged us to remember it, and we wish our children to be taught the same principles by which our fathers were guided.

"Brothers! We have too little wisdom among us. We cannot teach our children what we perceive their situation requires them to know. We wish them to be instructed to read and write, and such other things as you teach your children—especially the love of peace."

There is also a speech from Gayashuta, a very aged Seneca chief, addressed to Friends in the year 1790, which is deemed worthy of preservation. It exhibits not only a striking evidence of the confidence of these people in Friends, but affords a beautiful specimen of natural eloquence that has seldom been surpassed, viz:

The speech of Gayashuta, an ancient chief of the Seneca nation, on the borders of Pennsylvania, as given in charge by him to one of the sachems of that nation, in the year 1790, to be delivered to Friends of Philadelphia:

"Brothers, the sons of my beloved brother Onas.* When I was young and strong, our country was full of game, which the Good Spirit sent for us to live upon; the lands which belonged to us were extended far beyond where we hunted. I and the people of my nation had enough to eat, and always something to give to our friends when they entered our cabins; and we rejoiced when they received it from us. Hunting was then not tiresome; it was a diversion—it was a pleasure.

"Brothers! When your fathers asked land of my nation, we gave it to them, for we had more than enough. Gayashuta was among the first of the people to say: 'Give land to our brother Onas, for he wants it,' and he has always been a friend to Onas and to his children.

"Brothers! Your fathers saw Gayashuta when he was young; when he had not even thought of old age or weakness; but you are too far off to

* Onas is the Indian name for a *quill*, and by this name they always spoke of William Penn.

see him now he is grown old. He is very old and feeble, and he wonders at his own shadow—it has become so little. He has no children to take care of him, and the game is driven away by the white people, so that the young men must hunt all day long to find game for themselves to eat—they have nothing left for Gayashuta. And it is not Gayashuta only who is becoming old and feeble: there yet remain about thirty men of your old friends, who, unable to provide for themselves, or to help one another, are become poor, and are hungry and naked.

"Brothers! Gayashuta sends you a belt, *which he received long ago from your fathers*, and a writing, which he received but as yesterday, from one of *you*. By these you will remember him, and the old friends of your fathers in this nation. Look on this belt and this writing, and if you remember the old friends of *your fathers*, consider their former friendship and their present distress; and if the Good Spirit shall put it into your hearts to comfort them in their old age, do not disregard his counsel. We are men, and therefore need only tell you that we are old and feeble, and hungry and naked; and that we have no other friends but you, the children of our beloved brother Onas."

The concern from about this period continued increasingly to interest the minds of many Friends. Their sympathies and commiseration for the sufferings of our red brethren became deeply excited. They called to mind the many acts of mutual kindness and friendship that had attended the early settlement of our forefathers amongst them, and they felt themselves religiously called upon to make an effort for the relief of the remnant then left of this greatly injured people, whose utter extermination seemed to be inevitable, unless some efficient means were adopted to arrest the progress of circumstances that were now rapidly tending to their destruction.

Committees, composed of some of our most intelligent and active members, were appointed to extend care to them. These committees have been regularly continued to the present time; they have been engaged in unremitted efforts to promote the moral and social improvement of the Indian race, and their labors have been followed by great and lasting benefits to these people.

When the Senecas, more than fifty years since, first found themselves in difficulty, they turned their attention to Friends, as their only resource. In their recent troubles, they again renewed their application to the Society for aid, and the result, under the Divine blessing, has been, after a long and arduous struggle, the securing to them a home and the restoration of a portion of their lands, sufficient for all their present purposes, with increased responsibilities on our part, and a firm confidence on theirs, that we "will never desert them while they continue to exist as a nation."

The condition in which they are now about to be placed is altogether favorable for securing the benevolent objects so long desired by Friends—their elevation to the rank and enjoyment of the advantages of civilized life. Many of them, as regards their intellectual and moral condition, already occupy a position as respectable as their white neighbors. Being about to be concentrated into compact settlements, and surrounded on all sides by highly cultivated agricultural districts, they can have no sufficient resource for subsistence but the cultivation of their lands, to which many of them are now most anxious to apply themselves. Already the men here have almost universally adopted the dress or costume of the white people; and were it not for their color, they could not be distinguished from them.

They have become exceedingly desirous that their children should receive school education, and many of them are beginning to turn their attention to a division of property, and are looking forward to the time when they may be admitted to the rights and station of American citizens.

From there having been but little care extended to the Indian women, they are by no means so much improved as the men. They are still permitted to perform the labors of the field, and other drudgery, incompatible with their station as the female heads of families, and the duties that should rest upon them as the guardians and instructors of a rising generation. To this important point it is hoped the efforts and care of our women Friends will hereafter be more especially directed.

In conclusion, it may be added, that by the benevolent efforts which have been exerted to improve the condition of these people, they have been led to the very threshold of civilization. One step more, and the great object will be secured, and the question of the capacity of this race for elevation to the rank and condition of civilized life be forever settled.

A result so important to the whole Indian race cannot fail to animate their friends to renewed and increased exertions. On the issue may depend the existence not only of this remnant of a once powerful nation, but of the whole American aboriginal family. Should the fact become established, that by a judicious course of instruction the red men of our country may be reclaimed from barbarism, and become useful and good citizens, the whole policy of the government towards them may be changed, and our country saved the indelible disgrace which must inevitably follow their entire extermination.

Synopsis of the supplemental treaty.

Article 1st provides that the Ogden Company restore to the Senecas the two reservations of Cattaraugus and Allegany, with the same title to them in all things as they held them before the execution of the treaty of 1838, reserving the right to purchase the same when the Senecas may incline to sell them.

Article 2d provides that the Seneca nation agrees to relinquish to the Ogden Land Company the two reservations of Tonawanda and Buffalo.

Article 3d provides that the two reservations to be ceded shall be paid for in proportion to the relative value of the lands within all the four reservations.

Article 4th provides that this valuation shall be adjusted by arbitrators, one of whom shall be appointed by the Secretary of War, and the other by the Ogden Land Company. The umpire, or third arbitrator, to be appointed by the other two. The said valuation to be made as agreed upon in the former treaty, both as to the lands and improvements.

Article 5th provides that the forest or unimproved lands on the Tonawanda and Buffalo reservations shall be surrendered to the Ogden Land Company in one month after the award of the arbitrators shall be filed in the office of the Secretary of War, it being agreed that the amount awarded to be paid therefor shall be paid, or secured to be paid, to the Secretary of War. And it also provides that the improved lands shall be surrendered within two years from the filing the said award as aforesaid, when the value

of the improvements shall be paid to the President of the United States, to be distributed among the owners thereof.

Article 6th provides that such of the Seneca nation as may desire to emigrate from the State of New York shall be entitled, in proportion to their relative numbers, to the funds and annuities of the nation, and that should the said nation remaining in the State of New York hereafter sell these two reservations, the emigrating Indians shall, in like manner, be entitled to their share in the proceeds thereof.

Article 7th provides that the treaty of 1838 is annulled, so far as the same is inconsistent with the provisions of the present treaty.

Article 8th provides that the expenses attending the execution of this treaty shall be paid by the Ogden Land Company.

Article 9th stipulates that the parties to this treaty will solicit the influence of the United States to protect from taxes the lands of the Seneca nation while they may continue to own and occupy the same.

Emigrants from the Cattaraugus and Allegany reservations are to receive pay for their improvements when they shall choose to emigrate, out of any funds belonging to the Seneca nation in the hands of the general government; the property so improved to become the property of the nation.

F.

Treaty of 1842, *supplemental to treaty of* 1838.

JOHN TYLER,

PRESIDENT OF THE UNITED STATES OF AMERICA.

To all and singular to whom these presents shall come, greeting:

Whereas a treaty was made and concluded at Buffalo creek, in the State of New York, on the twentieth day of May, in the year one thousand eight hundred and forty-two, between the United States of America, acting herein by Ambrose Spencer, their commissioner, thereto duly authorized on the one part, and the chiefs, headmen, and warriors of the Seneca nation of Indians, duly assembled in council, on the other part; which treaty is word for word as follows, to wit:

Articles of a treaty made and concluded at Buffalo creek, in the State of New York, on the twentieth day of May, in the year one thousand eight hundred and forty-two, between the United States of America, acting herein by Ambrose Spencer, their commissioner, thereto duly authorized on the one part, and the chiefs, headmen, and warriors of the Seneca nation of Indians, duly assembled in council, on the other part.

Whereas a treaty was heretofore concluded and made between the said United States and the chiefs, headmen, and warriors of the several tribes of New York Indians, dated the fifteenth day of January, in the year one thousand eight hundred and thirty-eight, which treaty, having been afterwards amended, was proclaimed by the President of the United States, on

the fourth of April, one thousand eight hundred and forty, to have been duly ratified:

And whereas, on the day of making this treaty, and bearing even date herewith, a certain indenture was made, executed, and concluded by and between the said Seneca nation of Indians and Thomas L. Ogden and Joseph Fellows, assignees under the State of Massachusetts, in the presence and with the approbation of a commissioner appointed by the United States, and in the presence and with the approbation of Samul Hoare, a superintendent on the part of the Commonwealth of Massachusetts, which indenture is in the words and figures following, to wit:

"This indenture, made and concluded between Thomas Ludlow Ogden, of the city of New York, and Joseph Fellows, of Geneva, in the county of Ontario, of the one part, and the chiefs and headmen of the Seneca nation of Indians on the other part, at a council duly assembled and held at Buffalo creek, in the State of New York, on the twentieth day of May, in the year one thousand eight hundred and forty-two, in the presence of Samuel Hoare, the superintendent thereto authorized and appointed by and on the part of the Commonwealth of Massachusetts, and of Ambrose Spencer, a commissioner thereto duly appointed and authorized on the part of the United States:

"Whereas, at a council held at Buffalo creek, on the fifteenth day of January, in the year one thousand eight hundred and thirty-eight, an indenture of that date was made and executed by and between the parties to this agreement, whereby the chiefs and headmen of the Seneca nation of Indians, for the consideration of two hundred and two thousand dollars, did grant, bargain, release, and confirm unto the said Thomas Ludlow Ogden and Joseph Fellows all those four several tracts of land situate within the State of New York then and yet occupied by the said nation, or the people thereof, severally described in the said indenture as the Buffalo creek reservation, containing, by estimation, forty-nine thousand nine hundred and twenty acres of land; the Cattaraugus reservation containing, by estimation, twenty-one thousand six hundred and eighty acres of land; the Allegany reservation containing, by estimation, thirty thousand four hundred and sixty-nine acres of land; and the Tonnewanda reservation containing, by estimation, twelve thousand eight hundred acres of land; a duplicate of which indenture was annexed to a treaty of the same date, made between the United States of America and the chiefs, headmen, and warriors of the several tribes of New York Indians assembled in council; which treaty was amended and proclaimed by the President of the United States, on the fourth of April, one thousand eight hundred and forty, as having been duly ratified, as by the said indenture, treaty, and proclamation more fully appear:

"And whereas divers questions and differences having arisen between the chiefs and headmen of the Seneca nation of Indians, or some of them, and the said Thomas Ludlow Ogden and Joseph Fellows, in relation to the said indenture, and the rights of the parties thereto, and the provisions contained in the said indenture being still unexecuted, the said parties have mutually agreed to settle, compromise, and finally terminate all such questions and differences on the terms and conditions hereinafter specified:

"Now, therefore, it is hereby mutually declared and agreed, by and between the said parties, as follows:

"ARTICLE 1st. The said Thomas Ludlow Ogden and Joseph Fellows, in

consideration of the release and agreements hereinafter contained on the part of the said Seneca nation, do on their part consent, covenant, and agree that they the said nation (the said indenture notwithstanding) shall and may continue in the occupation and enjoyment of the whole of the said two several tracts of land, called the Cattaraugus reservation and the Allegany reservation, with the same right and title in all things as they had and possessed therein immediately before the date of the said indenture, saving and reserving to the said Thomas Ludlow Ogden and Joseph Fellows the right of pre-emption, and all other the right and title which they then had or held in or to the said tracts of land.

"Art. 2d. The chiefs and headmen of the Seneca nation of Indians, in consideration of the foregoing, and of the agreement next hereinafter contained, do on their part grant, release, and confirm unto the said Thomas Ludlow Ogden and Joseph Fellows, and to their heirs and assigns, in joint tenantcy, the whole of the said two tracts of land severally called the Buffalo creek reservation and the Tonnewanda reservation, and all the right and interest therein of the said nation.

"Art. 3d. It is mutually agreed between the parties hereto, that in lieu of the sum expressed in the said indenture as the consideration of the sale and release of the said four tracts of land, there shall be paid to the said nation a just consideration sum for the release of the two tracts hereby confirmed to the said Ogden and Fellows, to be estimated and ascertained as follows:

"The present value of the Indian title to the whole of the said four tracts of land, including the improvements thereon, shall, for all the purposes of this present compact, be deemed and taken to be two hundred and two thousand dollars, of which sum one hundred thousand dollars shall be deemed to be the value of such title in and to all the lands within the said four tracts, exclusive of the improvements thereon, and one hundred and two thousand dollars to be the value of all the improvements within the said four tracts; and of the said sum of one hundred thousand dollars the said Ogden and Fellows shall pay to the Seneca nation such proportion as the value of all the lands within the said two tracts, called the Buffalo creek and Tonnewanda reservations, shall bear to the value of all the lands within all the said four tracts; and of the said sum of one hundred and two thousand dollars the said Ogden and Fellows shall pay such proportion as the value of the improvements on the same two tracts shall bear to the value of the improvements on all the said four tracts.

"Art. 4th. The amount of the consideration moneys to be paid in pursuance of the last preceding article shall be determined by the judgment and award of arbitrators, one of whom shall be named by the Secretary of the War Department of the United States, and one by the said Ogden and Fellows; which arbitrators, in order to such judgment and award, and to the performance of the other duties hereby imposed on them, may employ suitable surveyors to explore, examine, and report on the value of the said lands and improvements; and also to ascertain the contents of each of the said four tracts, which contents shall govern the arbitrators as to quantity in determining the amount of the said consideration money.

"The same arbitrators shall also award and determine the amount to be paid to each individual Indian out of the sum which, on the principles above stated, they shall ascertain and award to be the proportionate value of the improvements on the said two tracts called the Buffalo creek reservation

and the Tonnewanda reservation; and in case the said arbitrators shall disagree as to any of the matters hereby submitted to them, they may choose an umpire, whose decision thereon shall be final and conclusive; and the said arbitrators shall make a report in writing of their proceedings, in duplicate, such reports to be acknowledged or proved according to the laws of the State of New York, in order to their being recorded; one of such reports to be filed in the office of the Secretary of the Department of War, and the other thereof to be delivered to the said Thomas L. Ogden and Joseph Fellows.

"Art. 5th. It is agreed that the possession of the two parts hereby confirmed to the said Ogden and Fellows shall be surrendered and delivered up to them, as follows, viz: The forest or unimproved lands on the said tracts within one month after the report of the said arbitrators shall be filed in the office of the Department of War, and the improved lands within two years after the said report shall have been so filed: Provided, always, that the amount to be so ascertained and awarded, as the proportionate value of the said improvements, shall, on the surrender thereof, be paid to the President of the United States, to be distributed among the owners of the said improvements, according to the determination and award of the said arbitrators, in this behalf; and provided, further, that the consideration for the release and conveyance of the said lands shall, at the time of the surrender thereof, be paid or secured to the satisfaction of the said Secretary of the War Department, the income of which is to be paid to the said Seneca Indians annually.

"But any Indian having improvements may surrender the same, and the land occupied by him and his family, at any time prior to the expiration of the said two years, upon the amount awarded to him for such improvements being paid to the President of the United States, or any agent designated by him for that purpose by the said Ogden and Fellows; which amount shall be paid over to the Indian entitled to the same, under the directions of the War Department.

"Art. 6th. It is hereby agreed and declared to be the understanding and intent of the parties hereto, that such of the said Seneca nation as shall remove from the State of New York under the provisions of any treaty made, or to be made, between the United States and the said Indians, shall be entitled, in proportion to their relative numbers, to the funds of the Seneca nation, and that the interest and income of such their share and proportion of the said funds, including the consideration money to be paid to the said nation in pursuance of this indenture, and of all annuities belonging to the said nation, shall be paid to the said Indians so removing at their new homes; and whenever the said tracts called the Allegany and the Cattaraugus reservations, or any part thereof, shall be sold and conveyed by the Indians remaining in the State of New York, the Indians so removing shall be entitled to share in the proceeds of said sales in the like proportion. And it is further agreed and declared, that such Indians owning improvements in the Cattaraugus and Allegany tracts as may so remove from the State of New York shall be entitled, on such removal, and on surrendering their improvements to the Seneca nation, for the benefit of the nation, to receive the like compensations for the same, according to their relative values, as in the third and fourth articles of this treaty are stipulated to be paid to the owners of improvements in the Buffalo creek and Tonnewanda tracts, on surrendering their improvements; which compensations may be ad-

vanced by the President of the United States, out of any funds in the hands of the government of the United States belonging to the Seneca nation; and the value of these improvements shall be ascertained and reported by the arbitrators to be appointed in pursuance of the fourth article.

"ART. 7th. This indenture is to be deemed to be in lieu of, and as a substitute for the above recited indenture made and dated the fifteenth day of January, one thousand eight hundred and thirty-eight, so far as the provisions of the two instruments may be inconsistent or contradictory; and the said indenture, so far as the same may be inconsistent with the provisions of this compact, is to be regarded, and is hereby declared to be rescinded and released.

"ART. 8th. All the expenses attending the execution of this indenture and compact, including those of the arbitration and surveys hereinbefore referred to, and also those of holding the treaty now in negotiation between the United States and the said Seneca nation, except so far as may be provided for by the United States, shall be advanced and paid by the said Ogden and Fellows.

"ART. 9th. The parties to this compact mutually agree to solicit the influence of the government of the United States to protect such of the lands of the Seneca Indians, within the State of New York, as may from time to time remain in their possession, from all taxes, and assessments for roads, highways, or any other purpose, until such lands shall be sold and conveyed by the said Indians, and the possession thereof shall have been relinquished by them.

"In witness whereof, the parties to these presents have hereunto, and to three other instruments of the same tenor and date—one to remain with the United States, one to remain with the State of Massachusetts, one to remain with the Seneca nation of Indians, and one to remain with the said Thomas Ludlow Ogden and Joseph Fellows—interchangably set their hands and seals the day and year first above written."

Therefore, taking into consideration the premises, it is agreed and stipulated by and between the United States of America and the Seneca nation of Indians as follows, to wit:

First. The United States of America consent to the several articles and stipulations contained in the last recited indenture between the said nation and the said Thomas Ludlow Ogden and Joseph Fellows, above set forth.

Second. The United States further consent and agree that any number of the said nation who shall remove from the State of New York, under the provisions of the above-mentioned treaty, proclaimed as aforesaid, on the fourth day of April, one thousand eight hundred and forty, shall be entitled, in proportion to their relative numbers, to all the benefits of the said treaty.

Third. The United States of America further consent and agree that the tenth article of said treaty, proclaimed as aforesaid, on the fourth day of April, one thousand eight hundred and forty, be deemed and considered as modified, in conformity with the provisions of the indenture hereinabove set forth, so far as that the United States will receive and pay the sum stipulated to be paid as the consideration money of the improvements therein specified, and will receive, hold, and apply the sum to be paid, or the securities to be given for the lands therein mentioned, as provided for in such indenture.

In testimony whereof, the undersigned, Ambrose Spencer, commissioner on the part of the United States of America, and the undersigned chiefs and

headmen of the Seneca nation of Indians, have to two parts of this treaty—one thereof to remain with the United States, and the other thereof with the Seneca nation of Indians—set their hands and affixed their seals the day and year first above mentioned.

AMBROSE SPENCER. [L. S.]

Tit ho-yah, or William Jones,	his x mark	[L. S.]
Saul Lagure,		[L. S.]
Gau-geh gruh-doh, or George Jamison,	his x mark	[L. S.]
N. T. Strong,		[L. S.]
Hau-neh-hoys-soh, or Blue Eyes,	his x mark	[L. S]
Jabez Stevenson,		[L. S.]
William Krouse.		
Samuel Wilson, or Ni-ge-jos-a,	his x mark	[L. S.]
William Krouse,		[L. S]
John Seneca, or Jo-on-da-goh,	his x mark	[L. S]
Ho-no-yea-os, or Jacob Bennett,	his x mark	[L. S.]
George Turkey,		[L. S]
Daniel Fau Guns,		[L. S.]
Goat-hau-oh, or Billy Shanks	his x mark	[L. S]
Daniel Fau Guns,		[L. S]
Goat-hau-oh, or Billy Shanks,	his x mark	[L. S.]
James Pierce,	his x mark	[L. S]
Gi-eut-twa geh, or Robert Watt,	his x mark	[L. S.]
Thompson S. Harris		[L. S]
Sah-go-en-toh, or Morris Halftown,	his x mark	[L. S]
Ten-wan-ne-us, or Governor Black Snake,	his x mark	[L. S]
Doa-ne-pho-gah, or Little Johnson,	his x mark	[L. S]
Joh-nesh-ha-dih, or James Stevenson,	his x mark	[L. S.]
Ho-wah-tan-eh-goh, or John Pierce,	his x mark	[L. S]
Da-gon-on de, or William Patterson,	his x mark	[L. S.]
Samuel Gordon,		[L. S]
Tunis Halftown,		[L. S.]
Hau-sa-nea-nes, or White Seneca,	his x mark	[L. S.]
Gah-nang-ga-eot, or Young Chief,	his x mark	[L. S.]
Thomas Jimeson,		[L. S.]
Moses Stevenson,		[L. S.]
Jonah Armstrong,	his x mark	[L. S.]
Joseph Silverheels,		[L. S.]
Da-o-as-sah-au, or Jo. Hunlock,		[L. S]
George Fox,		[L S]
Yaw-sau-ge, or Peter Johnson,	his x mark	[L. S.]
Noh-sok-dah, or Jim Jonas,	his x mark	[L. S.]
Dih-no-se-du, or Jacob Shongo,	his x mark	[L. S.]
Seneca White,		[L. S]
Gosh-u-aw, or James Shongo,	his x mark	[L. S.]
Jarvis Spraing,		[L. S.]
Ti-at-tah-co, or Adam Doxtader,	his x mark	[L. S.]
Maris B. Pierce,		[L. S.]
So gooh quas, or John Tallchief,	his x mark	[L. S.]
Isaac Halftown,	his x mark	[L. S.]
David Snow,	his x mark	[L. S.]

John Bark,	his x mark	[L. S]
George Killbuck,	his x mark	[L. S.]
George Dennis,	his x mark	[L. S.]
John Kennedy, sr.,	his x mark	[L. S.]
Abram John,	his x mark	[L. S.]
Job Pierce,	his x mark	[L. S]
Saw-da-ne, or George Deer,	his x mark	[L. S.]
Ga na-waw, or John Cook,	his x mark	[L. S.]
Jaw-ne-es, or John Dickey,	his x mark	[L. S.]
George Big Deer,	his x mark	[L. S.]
Nah joh gau eh, or Tall Peter,	his x mark	[L. S.]
John Kennedy, jr.,	his x mark	[L. S.]

Signed, sealed, and delivered in the presence of—
[the words "and Allegany," in the sixth page, being interlined]—

A. Dixon, *Commissioner on the part of New York.*
Benj. Ferris.
Orlando Allen.
Asher Wright.
O. H. Marshall.
Elam R. Jewett.
Cortlandt B. Stebbins.
Joseph S. Wasson.

Approved, August 25, 1842.

JOHN TYLER.

Now, therefore, be it known that I, JOHN TYLER, President of the United States of America, having seen and considered said treaty, do, in pursuance of the advice and consent of the Senate, as expressed in their resolution of the twenty fourth of August, one thousand eight hundred and forty-two, accept, ratify, and confirm the same, and every article and clause thereof.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed, having signed the same with my hand.

Done at the city of Washington the twenty-sixth day of August, in the year of our Lord one thousand eight hundred and forty-two, and of the independence of the United States the sixty-seventh.

[L. S]

JOHN TYLER.

By the President:
DANIEL WEBSTER, *Secretary of State.*

G.

TONAWANDA RESERVATION, *March* 30, 1844.

To the Hon. JOHN TYLER, *President of the United States:*

BROTHER: We communicate a few words to your excellency concerning the illegal course pursued by the Ogden Company to obtain possession of our lands. The appraisers of the Indian lands have, without informing us, and obtaining our consent, valued our improvements while they were seat-

ed in Buffalo, and filled out a report to the general government. When the report has been received by the President of the United States, we want and we demand that it be rejected. And when the Ogden Company shall feel disposed to pay money into the hands of the government for our lands, we strictly charge the government and the President not to receive it. The Ogden Company has often, since 1838, deceived both the general government and the Indians, and now we say let no more deception be used. The department have said that the United States had no legal power to enforce the treaty, and have accordingly sent the matter of difficulty to be adjusted in the judicial courts of the State of New York. We are determined never to sell our share of the Seneca lands, which consist of fifty acres to an individual. We believe that the treaty of peace made between the Six Nations of Indians and the United States is yet good. In that treaty peace and friendship are permanently established, and it provides to each of the Indians severally the entire control of their share of the Indian lands, and the free enjoyment of their rights and privileges. We are determined to keep the faith of that treaty. We shall also inform the governor of Massachusetts of the fraudulent course taken by the Ogden Company to secure to themselves the entire possession of our lands.

Brother, we desire that the Great Spirit might shine upon you in your deliberations to do justice to a helpless people. We rely upon the justice of a Supreme God, and upon the integrity and faith of the United States for justice and the proper protection of our people.

We are your obedient servants,

Jemmy Johnson,	his x mark.
John Blacksmith,	his x mark.
Blue Sky,	his x mark.
John Sky,	his x mark.
Wm Washington,	his x mark.
Samuel Parker,	his x mark.
Jessy Tiffany,	his x mark.
Lewis Poodry,	his x mark.
Jesse Spring,	his x mark.
Daniel Spring,	his x mark.
John Bigfire,	his x mark.
Isaac Shanks,	his x mark.
Lewis Kennedy,	his x mark.

Attest: ELY S. PARKER.

H.

TONAWANDA, *April* 21, 1844.

We, the undersigned, Seneca chiefs residing on the Tonawanda reservation, under a sense of duty to ourselves and nation, do once more communicate *our feelings and determination* to our great father, the President, relative to our difficulty with the Ogden Company, as it regards *our land*, and the course still persisted in by them to unjustly and unlawfully wrest them from us. We are informed that they have or are about to pay the government the money for our improvements, which have never been surveyed or valued, although the appraisers came to Tonawanda for that purpose, but were forbid to prosecute their design by the unanimous voice of the chiefs

of said reservation, and immediately left without surveying or appraising any of our lands.

We would request the government not to receive any money from the Ogden Company for our improvements or land, in any way, as we are still determined to remain on the small reservation left us; and shall *not receive the money from the general government*, if paid them by said company.

We feel very thankful to the Great Spirit for the preservation of our lives, and the numerous blessings he is bestowing on us; and also to our father, the President, for his kindness in listening to our cries in this time of trouble; and we trust he is willing to do all in his power to relieve us.

We are about to send a delegation to Washington very soon, and request that nothing further be done relative to our affairs till they arrive.

John Blacksmith, *head chief*,	his x mark.
Jimmy Johnson,	his x mark.
Blue Sky,	his x mark.
John Sky,	his x mark.
William Bigfire,	his x mark.
Jesse Spring,	his x mark.
Daniel Spring,	his x mark.
Samuel Parker,	his x mark.
Lewis Poudry,	his x mark.
Lewis Kennedy,	his x mark.
Wing Washington,	his x mark.
Jesse Tiffany.	his x mark.

J. A. SANDFORD, *Interpreter.*

His Excellency JOHN TYLER,
President of the United States.

I.

BATAVIA, *August* 20, 1841.

BROTHER: You are well aware of the troubles, difficulties, and perplexities with which we have been beset by the Ogden Company, who have long been endeavoring to get possession of the few acres of land that have been guaranteed to us by our great father, the President of the United States, and his council.

You know that against these encroachments we *have steadily and perseveringly entered our solemn protest*, but it has been the protest of the weak against the strong; and this company have at last (under the *color* of a treaty, to whose provisions we never have assented) sought to take actual possession of our lands.

On the 19th and 20th instant, they have offered our lands for sale in the village of Batavia. We attended on both of those days, *and publicly protested against the right of the company to our lands, and warned the people present against purchasing them.* But notwithstanding all this, they still persevere in their attempt, and some of the lands have been sold.

For fear that we should be *misrepresented* to you, and that you should be told that we had acquiesced in the sale, we inform you that this is not the fact. We have been deputed by the men and chiefs of our nation to take the course

we have; and we are desirous of informing you of the fact: hope you will stand by us in these our difficulties.

Your brothers,

JOHN BLACKSMITH, his x mark.
JAMES JOHNSON, his x mark.

J. A. SANFORD, (a Seneca Indian,) *Interpreter.*

Hon. WILLIAM WILKINS,
Secretary of War.

J.

An estimate of the number of acres of improved land to be owned, occupied, and cultivated by the Senecas of the Cattaraugus, Tonawanda, and Buffalo bands, if condensed on the Cattaraugus reservation, showing it to be entirely inadequate for their support.

Total population of the three bands, 1,980 souls;
Number of acres of wild land, 21,767;
Giving to each soul eleven acres, or thereabouts—entirely inadequate for their support.

The number of acres of cleared land is 2,123, which would be but a little over an *acre and a half* to each; an allotment that would not be sufficient to support *comfortably* more than *a tenth* of the population that will be crowded on that reservation, upon a fair estimate.

Present allotment is 50 acres to each, on their own reservation.

L.

MEMORIAL OF TONAWANDAS.

To his Excellency the President and to the honorable the Senate of the United States:

The petition of the Seneca Indians, residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, respectfully represents:

That we did unanimously oppose the treaty of January 15, 1838, and prevented its adoption in open council. That we did, also, unanimously oppose the treaty of May 20, 1842, and to the last. From the beginning to the end of these movements to take away our lands, we have unitedly and unanimously resisted.

We therefore believe that these treaties should not be executed upon us, if the principles of justice are to be followed. We believe there is no moral obligation upon us to adhere to them; and for denying their force, and resisting their execution, we set forth the following reasons:

1st. The Senate and President of the United States assumed to treat with the Seneca nation as an independent people, having power to form a treaty, and bind themselves thereby; and then, by the resolution of June

11, 1838, took away our *independence* by prescribing the manner in which our assent should be given—namely, by the signatures of a majority of our chiefs in open council; when, in fact, by our national laws it was, and still is, necessary that *all* of the chiefs should be of one mind; that they must *unanimously* agree to make a treaty—otherwise it cannot be made. In this fundamental law of the Iroquois, and of our nation, we at Tonawanda would have found protection. If the United States treat with us according to the laws recognised among nations, and upon the principles of justice, here is a valid objection to the execution of these treaties, and a sufficient reason why they should be unmade. We never before were required, in our treaties with the United States, to depart from our national forms of assenting to treaties which were to bind us.

2d. If it is insisted by the United States government (which has all the power to carry them into execution) that these treaties are valid notwithstanding this objection, we present, as another reason why these treaties should be broken up, that no equivalent is to be given to us for our lands. The peaceful possession of these lands has been guaranteed to us by the United States government. The *ownership and the title* were in us. The Ogden Company, to whom the government right to purchase has been transferred, has a mere naked right to purchase when we are ready to sell, and nothing more. They cannot compel us to sell. Now, we believe that, by the principles of justice and equity recognised among white people, we are entitled to the full value of our lands. We believe, further, that this reservation, if put in market, would bring $14 per acre on an average, including improvements, while these treaties pay us for the land and improvements about $2 50 per acre on an average. By these treaties, then, we are about to be despoiled of property which was undeniably ours, at the rate of $11 50 per acre, even if we had been willing to sell it at its market value. In a word, over eleven-fourteenths of all we possess has been taken from us by these treaties, and given to the Ogden Company. The same estimate will hold with reference to the Buffalo reservation. How unholy this speculation! These facts alone must show that treaties so obviously unjust were never made by our nation willingly and fairly; and lead to the inference that our lands have been wrested from us so pointedly as to demand of the government of the United States, from a sense of justice to itself, that the circumstances under which these treaties were obtained should be re examined, and, if found as represented in this petition, that the treaties themselves should be unmade by the parties thereto.

3d. In the third place, as further reasons why the United States should break up these treaties, at least so far as we at Tonawanda are concerned, we urge the following: If we leave Tonawanda we have no homes to go to. The Cattaraugus reservation is now full to overflowing, by the addition of 450 Senecas from the Buffalo reserve; so much so, that 250 still remain at Buffalo from necessity. The Cattaraugus reservation is small, and much of the land is hilly, and not capable of sustaining any families; and we believe that those already there can scarcely live. The Allegany reserve has also about as many as it can contain and support, and has more poor and hilly land in proportion than the Cattaraugus. It is absolutely impossible that we on this reservation, 500 in number, could live upon the Allegany with those already there. Starvation and misery would be the inevitable result. We cannot go there, and do not intend to, at all hazards. The truth and force of these facts will be realized when it is remembered

that our two best reserves, the Tonawanda and Buffalo, are to be taken from us; and if we are all collected upon the remaining two, the number of people will thus be more than doubled at once. It is horrible to believe that the United States government will bring famine and death upon us by executing these treaties. We cannot believe it. It may be said we ought to emigrate to the western wilderness. We answer, that there are less than one hundred at this time, and never have been more than 150, out of 2,500 Senecas, willing to emigrate. We cling to the land of our birth. We are linked together by the ties of brotherhood and consanguinity; and we must share a common destiny. We prefer to progress, as we do now, towards the customs of the whites, rather than to go into the wilderness again, and fall back to our natural or the hunter state.

4th. It is not necessary for us to detail the circumstances by which the treaty of 1838 was carried through. The fact that a majority of the chiefs of our nation did not sign the treaty in "open council," as the resolution of the Senate of June 11, 1838, directed; that some of those who did sign were bribed by money and promises of land; that others were made drunk; that others were made chiefs illegally, for the express purpose of signing, are well known and now admitted. And further, as to the treaty of 1842, although a majority was then obtained, (without the votes of any of the chiefs on this reservation, who all refused either to vote or to sign,) yet the compromise was made by the Senecas under a mistaken knowledge of their rights. The only question settled by that treaty was, whether they would unconditionally [sign, or] whether they would lose all their reservations, or save two of them. It was a mere *sacrifice* of two, to *save* two, believing that the *four* were otherwise lost. The fact that a majority signed under such circumstances, gives no *moral* force to the treaty.

5th. It may be said that under these treaties the rights of the Ogden Land Company have attached; and, if the United States and the Senecas should abrogate these treaties by a new council, the company could recover damages of the government. We answer, that we are not to blame. We did not ask the United States to make a treaty with us. We did not ask the Ogden Company to buy our lands. The first treaty was absolutely thrust upon us, and the last extorted from us, when it was well known that *twenty-three hundred and fifty* out of *twenty-five hundred* Senecas were decidedly and unequivocally unwilling to sell any lands.

6th. We may be told that we must look for redress to the courts of New York, or the courts of the United States, and that they will do us justice if we are entitled to any. We answer, that we are also informed that the legal tribunals cannot look behind or below the outward face of treaties which have been ratified, and inquire into the *manner or means* whereby they were obtained. The courts of law, therefore, cannot reach the evil or do us justice. If we look away from the President and Senate, our rights, our lands, and our hopes are gone. The United States government, which authorized a commissioner to make these treaties, can authorize another commissioner to unmake them, and we on our part, as a nation, will most gladly assent.

Your petitioners, in view of all the circumstances, most humbly and earnestly pray that before April, 1846, the Senate of the United States will pass a resolution recommending to the President that the case of the Seneca Indians demands a new and full investigation; and if the facts are found to be as represented in relation to these treaties, that the commissioner who

investigates the facts shall then be authorized to make a new treaty, which shall abrogate all past treaties, and restore the Seneca nation once more to its rights, place each reservation for the future under the control of its separate chiefs, and thus give, in effect, to the Seneca nation that redress which justice, equity, and humanity demand.

And your petitioners, as in duty bound, will ever pray, &c.

Chiefs.

		Number in family.
John Blacksmith,	his x mark	6
James Johnson,	his x mark	2
Blue Sky,	his x mark	19
Jesse Tiffany,	his x mark	3
Lewis Poodry,	his x mark	9
Samuel Parker,	his x mark	
Wm Washington,	his x mark	2
John Shry,	his x mark	7
George Babcock,	his x mark	
Richard Cooper,	his x mark	
Benjamin Jones,		
Tall Peter,	his x mark	
Isaac Shank,	his x mark	7
John Bigfire,	his x mark	3
Daniel Spring,	his x mark	5

Warriors.

John Possum,	his x mark	12
Han-nase-haá,	his x mark	6
Daniel Shry,	his x mark	7
John Moses,	his x mark	4
Samuel Parker,	his x mark	4
Jackson Ground,	his x mark	
John Brann,	his x mark	14
John Shanks,	his x mark	8
Daniel Bigfire,	his x mark	4
William Taylor,	his x mark	6
William Snyder, sr.,	his x mark	12
Squire Brooks	his x mark	5
W. Snyder, jr.	his x mark	6
John Cooper,	his x mark	4
John Jack,	his x mark	4
Joseph Taylor,	his x mark	5
Gar-go-oh,	his x mark	6
John Infant,	his x mark	5
William Clute,	his x mark	5
Isaac Doctor,	his x mark	9
James Shongo,	his x mark	6
Hiram Clute,	his x mark	7
John Blackchief,	his x mark	6
Monroe Jonas,	his x mark	7
Johnny John,	his x mark	10

		Number in family.
Billy Stewart,	his x mark	7
David Printup,	his x mark	7
John Lone,	his x mark	7
David Roodey,	his x mark	
Daniel Peter,	his x mark	14
George Cooper,	his x mark	6
John Hill,	his x mark	6
George Elkintor,	his x mark	15
John Peterson,	his x mark	
John Jones,	his x mark	5
Oak-ta-go,	his x mark	6
Har-ar-sars,	his x mark	7
John Miller,	his x mark	9
William Parker,	his x mark	12
Ja-ga-sa-gass-ta,	his x mark	10
John Bigbay,	his x mark	9
Henry Moses,	his x mark	10
James Gar-nos-crog,	his x mark	7
James Joshua,	his x mark	3
William Hatch,	his x mark	6
Isaac Doxtater,	his x mark	7
William Bigfire,	his x mark	5
Isaac Johnson,	his x mark	7
John Brookes,		2
John Shepard,	his x mark	5
James Tommy,	his x mark	
Ephraim Thomas,	his x mark	4
Levi Parker, esq.,		
John P. Poodry,		2
Henry Parker,		
George Moses,	his x mark	6
William Jimmy,		5

I hereby certify that all persons who signed this paper are men of the Seneca nation, and they did severally and personally sign and make their marks in my presence.

ELY S. PARKER, *Interpreter.*

M.

Mass meeting for the Indians.

A large convention of the citizens of Genesee county assembled at the court-house in Batavia on the 21st day of March, 1846, at 11 o'clock, a. m., to take into consideration the situation of the Tonawanda Indians residing in said county.

Mr. Samuel Richmond called the convention to order, and read the rec-

commendation of the grand jury of said county, and other citizens, for such convention, which was as follows:

At a court of oyer and terminer and general jail delivery, held in and for the county of Genesee, at the court house in Batavia, on the fourth Tuesday of February, A. D. 1846, the attention of the undersigned members of the grand jury, organized at said court, has been called to the condition of the Tonawanda Indians, a clan of the Seneca nation of Indians, occupying and residing on the Tonawanda reserve, in the county of Genesee.

Their inquiries have led them to the knowledge of facts showing that these Indians are continually molested by the intrusion of whites upon their lands, who claim them by purchase from, and contracts with, the Ogden Company. The undersigned deeply sympathise with these descendants of a once powerful race in the misfortunes to which they are subjected by the terms of the treaty under which the Ogden Company claim title to these Indian lands.

The grand jury, as such, can take no immediate action to redress and repair these misfortunes, but they unanimously recommend to the people of the county of Genesee a general convention, at some early day, to take into consideration the unhappy condition of the Tonawanda Indians, and to devise, if practicable, some effectual means for their relief.

J. E. TOMPKINS,
JAMES LATHROP,
NELSON PARKER,
A. H. GREEN,
JAMES B. TODD,
L. MIX,
SHERROD PARKER,
JEFFRY ROBE,
HIRAM TUTTLE,
SAMUEL HUNN,
JAMES G. TIFFANY,
R. S. KINNE,
R. N. CLEMENT,
LUTHER CROSBY,
IRA E. PHILIPS,
GEORGE MARCH,
E. S. HUDSON,
E. PRINGLE,
JOHN TONE,
GUY B. SHEPARD.

In accordance with the foregoing recommendation, the undersigned, citizens of the county of Genesee, have called a mass meeting of their fellow-citizens, to be held at the court-house in Batavia on the 21st day of March, A. D. 1846, at 10 o'clock in the forenoon of that day.

A great public wrong is about to be consummated before our eyes, by the removal of the Tonawanda Indians from their lands. Men, women, and children, who have done us no injury—who are guilty of no violation of law—no disturbance of the public peace—who have conducted themselves in a manner at once orderly and unobtrusive—are to be torn from their homes, without the consent of a single individual among them, and to be driven away from an inheritance which has been guarantied to them by

treaties, and to which they are attached by every consideration which can endear to men the place where they were born and have lived.

We know that the public feeling of the people of this county is greatly shocked at the threatened perpetration of this wrong, and we invite you to assemble *en masse*, that this feeling may obtain concentrated expression and force. There are means by which this public calamity may be averted, consistently with the interests of all who claim these lands, and we propose that those means shall be submitted to you for your consideration at the convention to assemble on the 21st of March.

SAMUEL WILLETT,
ANDREW H. GREEN,
FREDER'K FOLLETT,
E. J. PETTIBONE,
J. R. JACKMAN,
SAMUEL RICHMOND,
AMOS TYRELL, JR.,
TRUMBULL CARY,
JOHN SPRAGUE,
BENJAMIN THROOP.

On motion of Mr. Richmond, Samuel Willett, esq., was chosen president of the convention, and Isaac T. Gifford, James R. Jackman, and Trumbull Cary were chosen vice presidents.

On motion of M. Taggart, esq., Benajah Benedict, and, on subsequent motion, Samuel J. Todd, were chosen secretaries of the convention.

The convention being thus organized, Frederick Follett, esq., moved the appointment of a committee of five, to prepare and report to the convention resolutions for their adoption. The motion was carried, and the president appointed as such committee Frederick Follett, Isaac A. Verplanck, Samuel Richmond, Leverett Seward, and Seth Wakeman.

J. H. Martindale, esq., then moved the appointment of a committee of three to prepare and report to the convention a memorial for their consideration.

The motion was carried, and the president appointed as such committee John H. Martindale, Daniel H. Chandler, and Levi E. Rugg.

And thereupon the convention adjourned, to meet again at 1 o'clock, p. m.

At 1 o'clock the convention assembled, pursuant to adjournment; and having been called to order, Mr. Martindale, from the committee to prepare a memorial, made the following report:

A convention of a large number of the people of the county of Genesee, in the State of New York, assembled, on the recommendation of the grand jury recently organized in said county, to consider the condition of the Tonawanda Indians in said county, and to devise, if practicable, some effectual measures for their relief, respectfully represent to the Senate of the United States and to the legislature of the State of New York—

That the Tonawanda Indians are a clan of the Seneca nation of Indians, residing on a reserve of twelve thousand and eight hundred acres, situated in the counties of Genesee and Erie, but mainly in the county of Genesee. There are three other reservations in the State of New York, occupied by clans of the Seneca nation: one of about fifty-three thousand acres, called the Buffalo reservation, lying on the Buffalo creek, near the city of Buffalo;

another containing about twenty-two thousand acres, called the Cattaraugus reservation, lying in the counties of Erie, Chautauque, and Cattaraugus, on Cattaraugus creek, near the eastern extremity of lake Erie; and the third, containing about thirty one thousand acres, called the Allegany reservation, and lying on the Allegany river, in the counties of Allegany and Cattaraugus.

All these reservations form a part of an extensive territory, which, previous to the year 1787, was claimed by the State of Massachusetts. In that year a treaty ensued between that State and the State of New York, by which the sovereignty of the disputed territory was conceded to New York, and the pre-emptive right to the soil occupied by the Indians was conceded to Massachusetts and her grantees.

By this pre emptive right is meant the exclusive right to purchase the lands of the Indians.

In 1837 the Ogden Company (so called) were the grantees of this pre-emptive right to the four reservations occupied, as already stated, by clans of the Seneca nation of Indians.

In that year a commissioner was appointed by the government of the United States, ostensibly to treat with these Indians for the reconveyance by them of five hundred thousand acres of land in the Territory of Wisconsin to the United States, and which land, although not claimed by these Indians, nor in fact ever possessed or acquired by them, had nevertheless been offered to them by the government in the year 1832, on condition that they would remove there and occupy it. This they had not done; and refused to do. The ostensible object of this commission was to acquire these Wisconsin lands. The real purpose of the Ogden Land Company, through whose agency and solicitation the treaty had been projected, was to secure the removal of the New York Indians at the expense of the United States, and thus to obtain for themselves a clear title to the reservations which, on the consummation of this project, would be left vacant.

In 1838, in furtherance of the design just stated, the United States commissioner and the agents of the Ogden Land Company proceeded to the accomplishment of their purpose; and they procured, first, a conveyance to the Ogden Company of the four reservations already described, for the consideration of two hundred and two thousand dollars, which purports to have been signed by forty-two of the chiefs of the Seneca nation; and, second, a treaty by which the Indians ceded to the United States the five hundred thousand acres of land in Wisconsin; and the United States agreed to secure to the New York Indians one million eight hundred thousand acres of land immediately west of Missouri, and to pay to them the sum of four hundred thousand dollars—on the condition, however, that the Indians should remove to and settle on such lands within five years thereafter, or within such other time as the President might from time to time appoint.

By the customs and usages of the Seneca nation of Indians, their lands can only be alienated by the consent of *a majority of their chiefs in council*; the chiefs having first received authority from the nation to treat on the subject of alienation at all. By treaty with the United States, made in 1794, as well as by the most obvious dictates of justice and propriety, they can only be deprived of their lands with their own *voluntary consent*.

Neither the deed to the Ogden Company nor the treaty with the commis-

sioner of the United States received the sanction of a majority of the chiefs in council. On the contrary, only sixteen out of eighty-one chiefs ever gave such assent.

The assent and signatures of the remaining chiefs were procured by large bribes to many of them individually, secured in eight known instances with instruments signed by the authorized agents of the Ogden Land Company, and in which the agents contracted, besides other valuable considerations, to pay to eight chiefs alone, for their assent to the treaty and the promise of their influence and efforts to induce other chiefs to assent in like manner, the sum of *twenty-one thousand six hundred dollars* in cash.

These promises and agreements were made, and a portion of the bribe-money paid, and the signatures obtained, after urgent solicitations, by the hired agents of the company, in rooms in the city of Buffalo, where the chiefs had been separately inveigled, remote from the tribes, out of council, and for such reasons, when they had no authority to do any act having official sanction, or in the slightest degree obligatory upon the tribes.

And when these means failed of gaining for the company the requisite majority, new chiefs were elected by a small fraction of the tribe, contrary to their customs and usages, for the very purpose of securing the required number.

The Indians allege that, in addition to such means, chiefs were made drunk with spirituous liquors, and while they were utterly unconscious of what they were doing, were permitted to sign, and did sign, their assent to the treaty.

These facts, and many others equally revolting, reprehensible, and barbarous, into the details of which we cannot now go, are susceptible of the plainest proof. Indeed, such proof has already been furnished to and now remains in the custody of the Senate of the United States.

To the treaty thus made, after some immaterial amendments, the Senate gave its assent by the casting vote of the presiding officer of that body. In view of these facts, we respectfully submit and insist on the following points:

First. The Indians in the State of New York can only be deprived of their lands with their own *free and voluntary consent;* which consent can only be expressed in the mode sanctioned by the customs and usages which form the common law of their respective tribes.

Second. The Senate of the United States has no power or authority to change the customs or laws of the Indians, nor to prescribe the mode in which their assent to treaties shall be expressed. If the contrary were true, then would it be out of the power of the Indians, as it was put beyond their power in 1838, to express their free and voluntary assent or dissent to any treaty or project which the Senate might propose for their adoption.

Third. In the treaties of 1838, by which the Ogden Company acquired their title to the four Indian reservations, the Senate only acted as the guardians of the rights of the Indians, and simply to ratify the *free and voluntary* alienation of their lands, executed according to their customs and usages. Such *free and voluntary alienation* was a condition precedent, without which the Senate could not act at all, except to declare that the terms of the proposed treaty were such as they would approve; but such approval could not and did not bind the Indians any farther than they had *freely and voluntarily* consented to be bound.

If these positions are true, then we believe it follows that the treaties in

question, procured by bribery, and in a manner clandestine, and contrary to the laws of the Indians, are utterly without force or validity.

In 1842, the pressure of public opinion induced the Ogden Company to consent, or at least to interpose no objection, that the government should treat anew on the subject of their title; and another commissioner on the part of the United States attended at Buffalo to watch over the proceedings in a council of the Indians which immediately assembled. The proceedings of this council were conducted on the basis that the conveyance made in 1838 had fully and legally divested the Indians of their title to all of their four reservations. The Ogden Company did not agree that the Indians had any power to act freely and voluntarily on the question of retaining or surrendering their lands. The commissioner of the United States did not submit to them any such choice. They were called to decide simply whether they would be content with such favor as the Ogden Company might think it advisable, out of deference to public opinion, to concede to them; and the commissioner did submit a treaty, providing, as the best terms which that company would offer, that the Indians might retain two of their reservations, the Cattaraugus and Allegany, in consideration of their surrender of and removal from the Tonawanda and Buffalo reservations, and the release of a proportionate share of the purchase money of $202,000. It is worthy of remark that the Ogden Company claim title to the four reservations by the deed of conveyance executed to them by name in 1838. The treaty of 1842 is between the Indians and the United States, and does not purport in any manner to have received the sanction of or to be obligatory upon the Ogden Company. The Indians, with great reluctance and hesitation, but without the concurrence of a single individual of the Tonawanda clan, accepted this proposition of the commissioner. Had these Indians been permitted to decide, or even to deliberate on the question, whether they would surrender or retain all their lands, there would have been no doubt, no hesitation, no reluctance, in the prompt and decisive rejection of the terms which were proposed to them.

It is the height of folly and dishonesty to pretend that the treaty of 1842 was the free and voluntary assent of the Indians to the surrender of the Tonawanda and Buffalo reservations. Without power to choose, denied even the right to deliberate, assured that the rejection of the terms proposed would only compel their removal from all of their reservations instead of two, it is in vain to say that the Indians executed that treaty freely and voluntarily.

We believe, and we have the conviction of our consciences to confirm us in our belief, that a contrary conclusion conflicts with every just, moral, or Christian principle. It would substitute brute force for right. It has all of its validity in our power and in the weakness and ignorance of the poor remnant of that race on whom wrongs have been perpetrated as often and as long as they have held possessions to tempt the insatiate avarice of their oppressors.

By the terms of the treaty of 1842 the Indians are required to abandon the Tonawanda and Buffalo reservations on the 1st day of April, 1846. Already are they subjected to continual molestation by the whites, who have purchased some portion of their lands of the Ogden Company, in anticipation of their speedy removal. We are informed that many of the Indians who reside on the Buffalo reservation have gone to Cattaraugus and Allegany, where they are suffering for the want of necessary food, and con-

tinual quarrels among themselves embitter their lives, already made painfully burdensome by their struggle for a scanty subsistence.

The Tonawanda Indians have uniformly and unanimously opposed the treaty in every form in which it has been presented to them, and have at all times refused to receive any portion of the consideration money to be paid by the Ogden Company for their lands. They are firmly attached to the place where they live. Far enough removed from the populous villages and cities to be protected from the contagion of the vices which there prevail, they are not placed beyond the manifold advantages and comforts which the proximity of a civilized and enterprising community extends to them. Between them and us the kindest feelings and intercourse prevail. We do not perceive in their case any necessity for their removal growing out of considerations of policy and expediency. Could they be left to feel and profit by the happy influences which surround them, unmolested by the intrigues and avarice of a band of speculators, who are anxious to tear them from their homes, and seize upon and appropriate their inheritance, we believe that they would soon furnish us with an example of the beneficent results which education can accomplish in the elevation of their social, moral, and intellectual condition.

We respectfully ask the Senate of the United States to review the evidence which has been furnished to them, or, if expedient, to examine the additional testimony which can be procured of the frauds practised on the Indians; and if agreeable to the laws of the land, to revoke the assent which they have given to the sale of the Tonawanda reservation to the Ogden Company.

We submit that such action will be legal as well as just, because it never could have been the design of the United States Senate to give their sanction to a contract procured from the Indians by gross and palpable fraud. Clearly such a contract is void, so far as it imposes by its terms any obligation on the Indians; and if void, we cannot see how its ratification by the Senate can restore validity to it unless that body shall assume the power to alienate the lands of the New York Indians, not only without their consent, but even in spite of their protest and supplications, and in plain violation of the faith and honor of the United States government, pledged to them by treaties, the protection of which they have continually invoked.

And we further respectfully submit that if the faith of the government is indeed pledged to this Ogden Company, so that the revocation of the assent given by the Senate to the treaties in question cannot be made without remuneration to that company, then it is unbecoming a great, and powerful, and just nation, to withhold such remuneration. If the action of the government has been productive of wrong to the poor and defenceless tribes of red men which that government has promised to protect, then the plainest dictates of equity and honor require us to repair that wrong, and to purchase and restore the lands of which we have been made the unintentional instruments to defraud them. If there be no other remedy, we ask the government to purchase the 12,800 acres of land constituting the Tonawanda reservation, and to reconvey it to the clan of Indians who now hold it in possession.

And, inasmuch as doubts have arisen as to the effect of the ratification by the Senate of the treaty of 1842, and claims have been put forth by the Ogden Company that such assent debars the Indians of their right to plead or prove the frauds practised upon them, whenever that treaty may be called

in question by the legal tribunals of the country, we ask that the Senate, by resolution or otherwise, may avow the extent and effect of their assent, and deny their purpose or power to legalize and sanction any fraud, which may be susceptible of proof, to impair and invalidate that treaty.

And inasmuch as threats have been made by the agents of the Ogden Company, that, should the Indians refuse or neglect to remove from the Tonawanda reservation, agreeably to the provisions of the treaty of 1842, the government of the United States would employ the military force of the country to compel such removal, we respectfully but most earnestly ask that Congress shall interpose, by resolution of that body, to prevent such proceeding, as subversive of all the legal rights yet remaining to these Indians, and revolting to the feelings of the citizens of this county.

And we respectfully ask the consideration of the legislature of the State of New York to the condition of these Indians, and the legal difficulties which they must encounter, under the present statutes and laws of this State, in contesting the right of the Ogden Company, derived from the treaties of 1838 and 1842, to the Tonawanda reservation. In one instance a judge of the courts of this county has deemed it his duty to refuse an application for a warrant for the removal of intruders from that reservation, under the statute passed March 31, 1821, upon the sole and only grounds that by the treaty it has lost its character of Indian lands, and therefore he would be a trespasser in allowing and issuing such warrant.

We ask for such an amendment or addition to that statute, or other adequate legislation, as will enable the Indians to contest the validity of the treaty, and the rights which the intruders upon their lands have acquired under it. And we trust that speedy action may be taken in relation to this subject, so that these Indians may find in the laws of our State certain protection against the frauds and avarice of which they have too long been the unhappy victims.

The memorial having been read, Mr. Follett, from the committee on resolutions, reported the following:

Resolved, That we deeply sympathise with the remnant of the once powerful tribes of Indians who now inhabit the western part of our State, and that we have witnessed with feelings of mortified pride the attempts that have been made, and are now making, to deprive them of their scanty possessions; that we feel ourselves called upon by every principle of justice, and by all the dictates of philanthropy, to do all we can to arrest the great wrong that is about to be committed upon them.

Resolved, That while we cheerfully bear our united testimony to the morality, good order, industry, and agricultural progress of our neighbors at Tonawanda, we deeply sympathise with them in the difficulties into which they have been brought by the arts of the Ogden Company. We know they have never consented to sell a foot of land, nor have been a party to any treaty for that purpose. We can never approbate the oppressive treaties by which, if not annulled, they are to be forced from the land of their birth. We believe they are unjust: we believe, with them, that they should be abrogated, and we will aid them in their call for justice.

Resolved, That as the people of New York have never demanded the removal of these Indians, and would not, if called upon to express their opinion, wish their removal against their free consent, we would regard it as much more worthy the dignity and enlightened justice of our State to

elevate and educate the remnant of our Indians, than to suffer them to be uprooted as a nation, and be made the victims of a mere private speculation.

Resolved, That we view the government of this country as standing in the light of *guardians* to the Indians within its territory; and that as the treaty of 1838, and the so-called compromise of 1842, was never asked for or demanded by the Indians, but was brought about by the unwearied efforts and at the solicitation of the Ogden Land Company, we are therefore led to question its justice, and to doubt its binding force upon those who have all the time protested against its consummation.

Resolved, That the Congress of the United States, if the same shall be deemed practicable, be requested to arrest the final consummation of this treaty, that time may be afforded for a full, fair, and unprejudiced examination of the means and appliances used to bring about the same; and that the Senate be requested to review the treaties, and the means by which they were consummated; and that if it shall be satisfied that fraud and corruption were the basis upon which they were reared, that it then be called upon, as the *guardians* of the Indians, to abrogate and annul the same.

Resolved, That copies of these resolutions, signed by the president, vice presidents, and secretaries, be sent to the President and Senate of the United States, to the legislature of the State of New York, and to the chiefs upon the Tonawanda, Buffalo, Allegany, and Cattaraugus reservations; be published in the papers of western New York, and also that they be published in the Washington Union and the New York Tribune.

The memorial and resolutions were then, on motion of M. Wells Hewitt, esq., received for the consideration of the convention.

They were then discussed at length by Messrs. L. H. Morgan, Samuel Richmond, M. Wells Hewitt, Leverett Seward, Isaac A. Verplanck, D. H. Chandler, J. H. Martindale, and Harry Wilber.

Explanations relative to the treaty of 1842 were made by Mr. Aldrich, and another member of the Society of Friends, who were in attendance.

Jimmy Johnson, head chief of the Six Nations, then addressed the convention, through an interpreter.

The discussion of the memorial and resolutions exhibited in full the circumstances under which the treaties of 1838 and 1842 had been effected, and the difficulties in the way of relieving the Indians from their operation. And, although some of the speakers stated their fears of the impracticability of restoring the title to the Tonawanda reservation to its present occupants, all concurred in expressing their warm sympathies for the heavy misfortunes of the Indians.

The memorial and resolutions were then adopted, by acclamation.

L. H. Morgan, esq., was then appointed a special messenger to bear the proceedings of the convention to the President and Senate at Washington.

And thereupon the convention adjourned.

SAMUEL WILLETT, *President.*

ISAAC T. GIFFORD,
JAMES R. JACKMAN, } *Vice Presidents.*
T. CARY,
BENAJAH BENEDICT, } *Secretaries.*
S. J. TODD,

N.

Petition of the Tonawanda delegates, accompanying the President's message.

To the SENATE OF THE UNITED STATES:

The petition of the undersigned, a delegation of the Tonawanda band of Senecas residing upon the Tonawanda reservation, in the county of Genesee, and State of New York, respectfully represents:

That, in addition to the facts set forth in a petition presented to the President of the United States, our Great Father, the guardian of his wards the petitioners, and to your most honorable body, and sent to your honorable body, accompanied by a message relating thereto from our Great Father the President, are the following:

That the Tonawandas hold their reserved lands separately and in severalty as a distinct band of the Senecas; that as such they have unanimously protested against the sale of their reservation to the Ogden Land Company, or other persons; and more particularly did they protest, solemnly protest, against the treaties of January 15, 1838, and of May 20, 1842, in which the United States, other portions of the Senecas, and the Ogden Land Company, were parties.

That said treaties were made without any participation of the Tonawandas whatever, they being their constant and strenuous opposers; and that no single chief or individual of said band ever approved of them, or executed them, or entered into contract, or agreement, or sale, under them.

That no chief, warrior, or individual of the Tonawanda band of Senecas ever, at any time or place, or under any circumstances, sold to the Ogden Land Company, or their agents, an acre of their land, or ever received a cent for the same from them, or ever made an agreement or treaty of any kind with them.

That the said treaties were made in pursuance of a resolution of your honorable body of June 11 1838, in which the Tonawandas, as a distinct band, were to be assenting parties to make them valid; which provision has not been complied with, they having never assented to or acquiesced in them.

That at the time the said treaties were before your honorable body for confirmation, the Tonawandas protested against their confirmation; but which protest of your petitioners was not presented before you or your committee; which if done, it is firmly believed would never have been confirmed; and, in fact, were never confirmed by a constitutional majority of two-thirds of the Senate, as the Journal will show.

Notwithstanding all these facts, the said treaties purport to sell and convey to the said Ogden Land Company the reserved lands of the Tonawandas, without adequate consideration: cruelly unjust; compelling their removal from their lands, from their farms, homes, and from the graves of their fathers.

Therefore, your petitioners most earnestly and humbly pray that your honorable body, taking into full and solemn consideration the facts herein set forth, will exercise your power of revision and construction to the above treaties, being as you are a part of the treaty-making power of the United States—the guardian of the sacred rights of the Indians, and protectors of their interests; and so revise and act upon those treaties as you may think

fit, and as the immutable principles of justice and equity require, relieving your petitioners from their most unjust and ruinous operation.

And your petitioners will ever pray.

[Original signed by the delegation, and on file in the Senate.]

Report No. 410.

[To accompany bill H. R. No. 251.]

HOUSE OF REPRESENTATIVES.

CHARLES R. ALLEN.

MARCH 28, 1848.

. CROWELL, from the Committee of Claims, made the following

REPORT:

e Committee of Claims, to whom was referred the petition of Charles R. Allen, report:

That they have examined the claim of the petitioner, and find charges reasonable and just, and have, therefore, reported a bill its payment and recommend its passage. Concurring in the re- rt made from this committee, January 28th, 1845, the same is ap- nded hereto, and, with the accompanying papers, are directed to printed.

HOUSE OF REPRESENTATIVES.—January 28, 1845.

e Committee of Claims, to whom was referred the petition of Charles R. Allen, report:

That it appears that the petitioner was employed by the United tes Indian agent, James Stryker, and by their commissioner, to ke a treaty with the Seneca Indians, Hon. R. H. Gillet, to secure services of two deputy sheriffs or marshals, and three other , to preserve the peace and maintain order at the council, and protect the council-house from those Indians hostile to the pro- d emigration; that the petitioner hired the five persons, paid to their wages, liquidated their board bills, and kept their horses, which he claims the sum of $211 50.

bout the *amount* of his bill, or about the justice of its payment,

there is no dispute. Nor about the necessity of incurring the expense, or the legality of the order directing it, is there any difference of opinion. All these points are conceded.

The commissioner, Mr. Gillet, says: "I know the guard was kept, and the civil officers in attendance, for the purposes mentioned; and such services were useful and proper, and ought to be paid. As the funds intrusted to me to be used in the negotiation have all been expended, I refer the claimant to the Commissioner of Indian Affairs for payment." The certificates of Mr. Stryker and of Mr. Gillet are appended hereto; also the communications of the Commissioner of Indian Affairs.

The Commissioner of Indian Affairs, it appears, had made some "agreement," or effected some kind of "understanding" with an association of persons which he calls the "Ogden land company," by which he expected to obtain from that association a portion of the money necessary to defray the expenses of making a treaty between the United States and the Seneca Indians. Hence, when the commissioner, Mr. Gillet, who treated with the Indians, referred the petitioner to the Indian bureau for payment, in consequence of the exhaustion of the funds committed to him for disbursement, the petitioner was told by the Commissioner of Indian Affairs, in a letter to him, dated August 1, 1841, that "the appropriation for expenses attending the negotiation of the treaty with the New York Indians *having all been expended*, (as you were informed by the endorsement on the account, 22d March, 1839,) *there appears to be no alternative* but to apply, as before suggested, to the Ogden land company for payment."

It by no means appears clear to your committee, that because the Commissioner of Indian Affairs has exhausted the funds placed at his disposition by Congress to make a treaty, he can therefore give the employees of the government to individuals or to companies by whom said employees were not employed, and with whom they never had anything whatever to do. On the contrary, the Indian agent and the commissioner, after the destruction of the council house by the hostile Indians, having found it absolutely necessary to employ a guard, the government is bound, in honor, in the opinion of your committee, to pay the men employed, and refer them for payment to a company, *to them* wholly irresponsible. If the Commissioner of Indian Affairs has effected an "understanding"—most especially if he has consummated an absolute "agreement"—with the Ogden land company, by which that company for a valuable consideration, has become responsible to the United States for the payment of one-half of the expenses incurred in making the treaty above referred to, it is undoubtedly his duty to take measures to see that that company complies with its engagement; but such agreement cannot authorize him to force upon the private creditor, to the extent of his claim, the office of collector of governmental demands against either individuals, companies, corporations or States, American or foreign; and this the more especially when employees are made creditors of the government without notice that they must look elsewhere for the liquidation of their

ands. That the petitioner was legally employed by duly au-
rized government officers, and that they would have paid him
for the lack of funds, is expressly proved; and, hence, should
promptly paid. A bill for the amount of the claim is herewith
orted, and its passage recommended.

The United States,

To Charles R. Allen, Dr.

1838.		
pt. 29.	For the board and lodging of two deputy sheriffs or marshals, (who were in attendance to preserve the peace and maintain order at the council held on the Buffalo creek reservation with the Seneca Indians by R. H. Gillet, commissioner, &c.,) 39 days, at 75 cents each per day.....	$58 50
	For keeping and feeding their horses, and other contingent expenses during that time, (being from the 21st August to the 30th September, 1838,).....	6 75
kt. 2.	For the services and board of three men employed as a guard to protect the council-house in which the said council was held; one council-house having been burnt by the party opposed to emigration, and an attempt made to fire the other, (from 24th August to 2d October, 1838,) three men 39 days, at $1 25 each per day, including pay and board.....	146 25
		$211 50

I certify that the foregoing account is correct; that the expense
as necessary; and that there is due to Charles R. Allen the sum
$211 50, which you will please pay on this my requisition.

JAMES STRYKER,
United States Agent.

Hon. R. H. GILLET,
Commissioner, &c.

The above account was made, as I understand, upon the express
rangement with the agent, James Stryker. I know the guard was
ept, and the civil officers in attendance, for the purposes men-
ioned; and such services were useful and proper, and ought to be
id. As the funds entrusted to me, to be used in the negotiation,
ave been all expended, I refer the claimant to the Commissioner
f Indian Affairs for payment, which he is requested to do as soon

as an appropriation authorizing it shall be made. Dated November 28, 1838.

R. H. GILLET,
Commissioner, &c.

OFFICE INDIAN AFFAIRS,
March 22, 1839

According to the understanding between the department and the Ogden Company, the expenses in holding a treaty with the New York Indians were to be borne by each party paying a share, as more fully endorsed upon a settlement given to Mr. Gillet, for the purpose of enabling him to collect the sum of $1,244 57 expended by him as commissioner, over and above the sum of $4,000 paid to the government. The annexed claim of pay to be on account of the same negotiation, and, according to the agreement before referred to, is to be paid by the company; the department refusing to recognise the claim, or to make any further payment of the expense. The claim annexed is $211 50.

T. HARTLEY CRAWFORD.

WAR DEPARTMENT,
Office Indian Affairs, August 9, 1841.

SIR: I have received your letter of the 5th instant; also yours of the 2d June, addressed to the Secretary of War, enclosing an account for expenditures incurred in 1838 at the council with the New York Indians, amounting to $211 50. The latter was passed among the claims, and thus overlooked until now.

The appropriation for expenses attending the negotiation of the treaty with the New York Indians having all been expended, as you were informed by the endorsement on the account, 22d March, 1839,) there appeared to be no alternative but to apply, as before suggested, to the Ogden Land Company for payment. In the mean time, the papers will be retained, as you wish it, to be hereafter disposed of as you may request.

Very respectfully, your obedient servant,
T. HARTLEY CRAWFORD.

C. R. ALLEN, Esq.,
Richmond, Virginia.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial of Charles R. Allen

RESPECTFULLY REPRESENTS:

That the account hereto annexed, marked A, constitutes a fair and just claim, to which he is entitled, and which, though small in amount, he is constrained to submit to Congress, in full confidence that, through their instrumentality, justice will be awarded to him

By reference to an endorsement made on the paper herewith mitted, it will appear that the commissioner of the United tes government admits that an understanding did exist between War Department and the "Ogden Company," that the expenses holding a treaty with the New York Indians were to be defrayed ach party paying a share thereof; and that the annexed account, ked A, appears to have been incurred for, and on account of, same negotiation.

The certificate of the United States Indian agent sustains the rectness of the account; admits the sum due to your memorialist be two hundred and eleven dollars and fifty cents, which he re- sted, by his written order, the Hon. R. H. Gillet, commissioner, , to pay.

The written statement of the last named officer of the govern- ent shows that a positive arrangement was made between the par- s interested for the payment of the expenses thus incurred. It ther shows, that the guard and officers employed were for the ects and purposes mentioned in the said account; that their ser- s were useful and proper, and ought to be paid, and that he uld have settled the same, but that the funds entrusted to him to used in the negotiation, had been all expended before this claim s submitted to him for payment. As a further evidence of the igation of the United States government to pay the same, their ficer, the Hon. R. H. Gillet, referred your memorialist to the mmissioner of Indian Affairs to have his claim settled, or, more perly, paid; for, as to the amount, their is no dispute, and there- re no adjustment is necessary to be made. This officer of your n government, who was familiar with the whole subject, with a l knowledge of all the circumstances attending the case, and in e discharge of a high public duty, admits the liability of the nited States government, and recommends your memorialist to ply to the War Department for the payment of the small sum l due him and unsatisfied.

Your memorialist further represents that he has hitherto made plication to the "Ogden Company" for payment of his claim, ich they have refused, on the ground that the subject involved e liability of the United States government; that the guard re- rred to in the said account was kept for the protection of officers d property of the United States, and that the liability of the vernment was therefore manifest and proper.

Your memorialist also shows that, for the keeping of the guard, e sum now claimed by him has been paid out of his own pocket, r the use of the govetnment, and he did not suppose that any dif- lty could arise, or hesitation be made in regard to its payment, enever demanded; but, contrary to all his just and reasonable pectations, the Commissioner of Indians Affairs, and the proper ficers of the government to whom he has applied, have refused to n him that justice to which he thinks himself entitled, and he is erefore driven to make this appeal to your candor and liberality. d, as in duty bound, will ever pray, &c.

C. R. ALLEN.

DEPARTMENT OF WAR,
Office Indian Affairs, June [illegible]

SIR: Your letter of the 10th instant, enclosing the [illegible] Charles R. Allen, and requesting information as to its true [illegible] and a copy of any important evidence in relation to the same, [illegible] been received.

In reply, I have the honor to state, that the view which [illegible] of the claim by the department, is shown in the endorsement (March 22, 1839) on Mr. Allen's account, herewith returned, and in the enclosed copy of a letter addressed to the claimant, [illegible] 9, 1841. There is no evidence on file in this office in relation to the claim, and if there ever was any other than what is appended to the account—though this, after a careful examination, does not appear—it must have been handed to Bacon Tait, esq., to whom, on Mr. Allen's order, the claim was delivered, as per receipt on file, of January 29, 1842.

Very respectfully, your obedient servant,

T. HARTLEY CRAWFORD.

HON. JOS. VANCE,
Chairman Committee of Claims.

WASHINGTON CITY, *January* 28, 1843.

DEAR SIR: Enclosed I send you a copy of a bill, which I have succeeded in getting the Committee of Claims to report for your relief. I fear, however, that the numerous important subjects which remain to be acted on may prevent its passage at the present session of Congress. I shall continue to use my best exertions to have it finally disposed of.

Very respectfully, your obedient servant,

J. W. JONES.

CHARLES S. ALLEN.

A BILL for the relief of Charles R. Allen, of Richmond, Virginia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury be, and is hereby, authorized and required, out of any money in the treasury not otherwise appropriated, to pay to Charles R. Allen, of the city of Richmond, in the State of Virginia, the sum of two hundred and eleven dollars and fifty cents, it being in consideration of money paid by him for the hire and board of two civil officers and three guards, and for the keeping of their horses, at the request and by the authority of the Indian agent of the United States for the Seneca Indians, in 1838, and when a treaty was being held with the said Indians.

GRANT to The Honorable James Baby

of the Township of Sandwich

in the Western District Esquire

all that parcel of Land

in the Township of Delaware

in the County of Middlesex

in the ——— District of London being

Lots numbers 20 and 22 in Concession C. – Lots No 21 & 22 in Concession D ~~in the~~ and the East ~~Concession~~ half of Lot that is to say, No 24 in Concession D

Commencing in front of the said ——— Concessions C and D

at the ~~South East~~ North West Angle of each of the ~~said~~ whole Lots and for the half Lot commencing in the Centre of the said Concession D

then North 70 degrees East ~~minutes West~~ 67 chains 50 Links in the whole Lots and 33 chains 75 links in the half Lot

more or less, to the allowance for Road in the rear of the said Concessions

then South 20 degrees East ~~minutes West~~ 29 chains 80 Links,

more or less, to the Northernmost limit of ~~between Lots No.~~ each Lot

then South 70 degrees West ~~minutes East~~ 67 chains 50 Links in the whole Lots

more or less, to the allowance for Road in front of the said Concessions and 33 chains 75 links in the half Lot more or less to the Centre of the said Concession D

then North 20 degrees West ~~minutes East~~ 29 chains 80 Links

more or less, to the place of beginning in each Lot

containing 900 Acres more or less.

Order in Council, 1st day of July 1899.

Under the Administration of Mr President Russell

for 6000 ~~Hundred~~ Acres of Land

S. G. O. { ~~Warrant~~ / Fiat } No. 553

Description No. 11286

~~CROWN LAND DEPARTMENT, MONTREAL,~~ SGO. 20 May 1807.

(signed) Chewett & Ridout

Acting Surv. Genl.

A correct Copy

Certified

A. Bouthillier

Cr. Land Department
Montreal 7. April 1848

Grant of the
Crown
to Jos. Baby

20 + 22 C

the Seneca people to do that which they never yet had an opportunity to do to vote to adopt the system of government which has been set up among them without their consent or to reject it and adhere to the government handed down to them by their forefathers

Your memorialist will not doubt but that the State of New York will allow the Senecas to choose their own form of government as the best and only means of quieting the disturbances arising from the attempt of a few lawless and foreign indians to overthrow the ancient government of the Senecas and the state will not attempt to give strength and character to so glaring usurpation but will with proper guards submit that question to the Seneca people

The argument that the constitution can be altered by a two third vote of the nation and that we can get our remedy under it is absurd in all its aspects - Because we are compelled first to submit to the usurpation and then get two thirds of the voters against it thus setting at defiance the rule that the majority should govern.

Your Memorialist will add that Peter Wilson has often before the Committee of the Senate, to individual members, and in his memorial attempted to fasten odium upon the undersigned and other Seneca chiefs because they signed the treaty of 1838 while others opposed it To all this he replies when the circumstances attending the negotiation of that treaty is understood and the motives of some by which the signers and were influenced is known it will not be regarded as either proof of error or corruption to have signed that

treaty (But that the bargain if the western lands had been healthy would have been generally considered advantageous to the Indians. But that is all now forever rejected & ended)

But if the act was even so bad Dr Peter Wilson himself must figure in a light still more unenviable because without being a Seneca Indian and having no legal right or interest in the Seneca lands he also signed the treaty of cession which he so much and so often condemns

All which is respectfully submitted

Dated 2 April 1800

Mars B. Pierce

31st Congress, 2d Session.

Rep. No. 18.

House of Rep.

FIRST CHRISTIAN AND ORCHARD PARTIES ONEIDA INDIANS.

[To accompany bill H. R. No. 450.]

JANUARY 29, 1851.

Mr. CLARKE, from the Committee on Indian Affairs, made the following

REPORT:

The Committee on Indian Affairs, to whom was referred the petition of Daniel Bread and Jacob Cornelius, chiefs and delegates of the First Christian and Orchard parties of the Oneida Indians in Wisconsin, report:

That in the year 1794 the United States, by treaty of that date, stipulated to pay the "six nations" of New York Indians four thousand five hundred (4,500) dollars annually, which sum was to be divided amongst the said six nations according to their numerical strength. (See Statutes at Large, vol. 7, page 46.) The Oneida Indians composed one of these six nations. The Indians whose petition is the subject of this report are of that tribe or nation, and are styled "the First Christian party" for the reason that they first embraced the Christian religion. This party, with the approbation of the United States, emigrated to Green Bay, and were entitled under the treaty aforesaid, and by the promise of the government, to their proportion of the said annuity according to their numerical strength. In consequence of the separation of these bands and the inaccurate knowledge of the government as to their relative numbers, and in part to the neglect of the Indian agent and the remissness of the Indian department at Washington, it happened that in the apportionment and distribution of the annuity for and during twelve years preceding 1842, the bands or tribes remaining in New York received $3,934 68 *more* than their just proportion, and the Oneidas $4,260 *less*, and the Stockbridges $174 88 less than their just proportion. Of this apportionment the emigrating party frequently, and indeed every year, complained to this government, till the year 1843, when, to remedy this mistake, the government made a new apportionment of the annuity, by which such a deduction was made from that portion of the annuity going to the bands that remained in New York, and added to that portion which was due to the Oneidas and Stockbridges who had emigrated, that in the year 1850 the various bands would have received their just proportions of the *principal* of the annuity.

This arrangement has been perfected, and the injustice of which the petitioners complain is this: that for nearly twenty years the government has been indebted to them, and has paid no interest on that indebtedness. This simple interest at six per cent. amounts to one thousand seven hundred and sixty-four dollars and eighty cents ($1,764 80,) and which sum the committee think is justly due, and they therefore ask leave to report by bill.

33d Congress, 1st Session.

Rep. No. 61.

House of Rep.

ONEIDA INDIANS.

JANUARY 24, 1854.—Ordered to be printed.

Mr. ORR, from the Committee on Indian Affairs, made the following

REPORT.

The Committee on Indian Affairs, to whom was referred the petition of the Oneida Indians, of New York, for payment of interest, report:

That they have considered the prayer of the petitioners. The payments were made to the Oneida Indians, under the treaty of 1838, within a reasonable time after its ratification, and there is, therefore, not even an equitable claim against the government; but, if the fact were otherwise, it is the settled policy of the government to refuse the allowance of any interest on claims against it, upon the assumption that the government is always ready to pay its just debts. The committee think the rule is sound, and should not be departed from in this case. They therefore recommend that the prayer of the petitioners be not granted.

In the year 1792

Art. 1. Peace & friendship perpetual

Art 2. The United States acknowledge the lands reserved to the Creeks, Cherokees, Chickasaws & Choctaws respectively, within the limits of those nations as their respective hunting grounds & do hereby guarantee to the said nations the possession of the said grounds, & do also guarantee to the said nations the free use & enjoyment of the game within the said grounds, so long as they shall continue to be the hunting grounds of the said nations respectively.

Art 3. Boundaries of lands belonging to the Lenape nation

"Now the US acknowledge all the land within the aforementioned boundaries, to be the property of the Lenape nation. The US will never claim the same, nor disturb the Lenape nation. The US will also never claim the same, nor disturb the Lenape nation, nor any of the Six Nations, or any other tribe of Indians residing thereon, living with them in the free use & enjoyment thereof: but it shall remain theirs, until they choose to sell the same to the people of the US who have the right to purchase."

Art 4. The Six Nations never to claim other lands in the US nor disturb the people of the US in the free use & enjoyment thereof.

Art 5. The Indians give to the US the right to make a waggon road from Fort Schlosser to Lake Erie, or from Buffalo Creek to the people of US to have the free use of it — the Indians to assist the people of the US free passage thro' their lands. Also free use of the harbours & rivers adjoining & within their respective tracts of land for the purpose of erecting piers, wharfs, & houses for the reception of vessels & boats.

Art 6. In consideration of the free access freely granted & the new articles given to the value of $10000 & yearly the sum of $3000 to $1500 allowed them by an article signed on the 23 day of April 1792 making in the whole $4500 which shall be expended yearly forever in purchasing clothing, domestic animals, implements of husbandry & other utensils suited to their circumstances & in compensating useful artificers who shall reside with or near them & be employed for their benefit. The immediate application of the

Indentures from 30 1800 [illegible]

a Treaty

Treaty

Treaty [illegible]

Treaty [illegible]
tribes of Indians [illegible]
Seneca tribe [illegible]
Grants — [illegible]
to 5 chiefs of the Seneca tribe of Indians
of land to contain [illegible]
the Cheavonen & Seneca [illegible]
miles on the [illegible]

1850

[illegible]

Treaty of Fort Stanwix 1784 [illegible]

The United States give peace to the Oneida, Tuscarora and Tribe of Indians in this state, [illegible] the following conditions

Article 1st. The Indians to give the prisoners and deserters

Article 2d. The United States shall have the sole [illegible] of the lands on which they are settled in

Article 3d. Defining the boundary [illegible] United States [illegible] of Ohio

Art. 4th. In consideration of the [illegible] of the Oneida, Tuscarora and the friendly Nations of the Indians [illegible] articles [illegible] goods to be delivered to said Indians [illegible]

Treaty of Nov. 9th 1789. made at Fort Harmar [illegible] between

Art 1. Refers to the Treaty of Fort Stanwix [illegible] engagements & stipulations [illegible] respecting the boundaries [illegible] delivery [illegible]

Art 2d. [illegible] to the [illegible] lying east [illegible]

Art 3d. [illegible]

Art 4th. [illegible]

Provided that [illegible] the laws [illegible] Stolen horses [illegible] delivered up

Art 1st Certain other grants are made by this treaty to individuals as whereas they are to be effected — have only to be excepted — the rights of navigation & hunting allowed — Payment for property destroyed during the war with Great Britain — To the Senecas at Lower Sandusky $3989 24/100 — an additional sum to be paid at Wapaghkonetta $219 —

Grants of land to be free from taxes — Provides for the education of certain children by grant of land — Engagements to be made for that the Indians are obliged to abandon — &c &c.

A supplementary treaty to the above made & concluded at St Marys this 9th Jan 17. 1818.

Sent article = The grants in the treaty of 29th Sept 1817 to be considered only as reservations for the use of the Indians "to be held by them in the same manner as Indian reservations have been held."

Art 2. makes additional reservations for the Senecas of 8960 acres to be laid off adjoining the South line of their reservation of 48 & 9 miles at Lewistown — also 10000 acres to be laid off on the South side of the Sandusky River adjoining the South line of their reservation of 30000 acres &c.

Treaty of July 20 1831 — Recites that the tribe of Senecas residing on the Sandusky River have recently obtained from the United States lands in exchange for lands now owned & occupied by them for lands but of the views of Mississippi for the removal & permanent settlement of said tribe —

Art 1st Cedes the 40000 acres of land granted them by the former treaties —

Art 2d Agrees to cause the said tribe of Senecas consisting of about 1500 souls to be removed in a convenient & suitable manner to the western side of the Mississippi River & will grant them by patent in fee simple as long as they shall exist as a nation & remain on the same tract of land situate in & adjacent to the southern boundary of the lands heretofore granted to the Cherokee nation of Indians & adjoining the boundary of the State of Missouri which tract shall extend 15 miles from east to west & 7 miles from north to south containing about 67000 acres be the same more or less provided the President of the U.S. shall cause letters patent to be issued in due form of law agreeably to the act of the last Session of Congress.

Art 3d Notwithstanding the expense of the removal of the said Senecas will Government supply them with a sufficiency of provisions to subsist them for 1 year after their arrival at their new residence —

the same to within the bounds of any State or Territory [illegible] thereof, & further that the President of the U.S. will [illegible] to be protected at their new residence against all intruders or [illegible] from any other tribe or nation of Indians or from any other person or persons whatever & he shall have the same care & protection over them & the County to which they design to remove, that he has heretofore had over them at their present place of residence —

Articles of agreement Dec 29. 1832

The Seneca from Sandusky & the mixed band of Senecas & Shawnees having formed a confederacy to be called "the United nation of Senecas & Shawnees" desiring to occupy their lands as tenants in common: & as the State of the County provide for them to cede to the first half of the Neck of Grand River which runs through Snow Creek the same — They yield to the U.S. all the land on the West side of said river & the U.S. give them 100000 acres exclusive of the land they will have left —

Treaty of Moffits Creek — amended by the Senate June 11. 1838 for [illegible] 1840 —

Preamble — states that the Indians wish to move West &c. States provisions made of the Menomonie & Winnebago Indians at Green Bay. of [illegible] & other Confederations & that in consequence of their wish to remove [illegible] the Moffits &c the following articles of a treaty are entered upon to — The Indians relinquish their right to land at Green Bay — except [illegible] Reserve —

Art 2 — The U.S. set apart other lands for Indians belonging to the tribe State of Missouri &c. to include 1,824,000 acres being 320 acres "to each head of family of said Indians as their numbers are at present computed". Provided the same not for sale subject to the said tribes or nations of Indians patent from the President issued in conformity with the provisions of the 3 the act entitled an act to provide for an exchange of lands with the Indians in any State or territory & for their removal west of the Mississippi approved on the 28th day of May 1830: with full power & authority said Indians to divide said lands among the different tribes, Indians or individually, with the right to sell & convey to them such other laws & regulations as may be adopted by the respective tribes or tribe by [illegible] or by a general council of the Indians of New York Indians taking from the Collectively — It is understood & agreed that the above [illegible] Council

is [illegible]

The Senecas, Mohawks, Cayugas, Tuscaroras, Onondagas, Oneidas,
Stockbridges, Munsees, Mohicans residing in the State of New York
the same to be divided equally among them according to their respective
numbers as mentioned in a schedule hereto annexed —

Article 3. Tribes that do not agree to remove within 5 years or such
other time as the President shall appoint to forfeit all interest in
lands set apart —

Art 4. Peace & friendship to prevail between the United States & the
government & people thereof & the Indians allied to them & from the
government & people thereof & the lands secured to them
never to be molested in any state or territory &c —

Art 5. Land set apart for the Oneidas

Art 6. Annuities when to be paid:

Art 7. Treaty binding when ratified

Art 8. The accounts of the commissioners to be paid —

Art 9. Special provision for the St Regis Indians —

Art 10 Special provision for the Senecas.

Art 8. It is agreed with the Senecas that they shall have for their
[illegible] the Cayugas & Onondagas residing among
them part of the land set apart for the St Regis
so far west as to include the lands
said of the Senecas Cayugas & Onondagas
[illegible] they find there is not sufficient
their use & then the President shall set
for them a competent & they agree to
to their new homes within 5 years &c
& whereas at the making of this treaty [illegible]
the [illegible] of the State of New York
relative to Indians in the province &c
said Senecas relinquish to Gideon Lamb by a deed of conveyance
duly executed & recorded in Genesee County Consideration
100,000 to be invested by the President in stocks for
the benefit of the Senecas annually & 10,000 to be paid to
[illegible] on the lands so ceded according to the [illegible]

Art 11. Special provision for the Cayugas [illegible]
$12,500 to be paid & disposed of as the chiefs shall
[illegible] —

Treaty of July 1831.

Art 4. 2nd Mo. of the first sales of the lands herein ceded by the Lenapes the U.S. will cause a grist mill & a saw mill to be built & with the ceded & other lands herein granted to the Lenapes with all necessary the expense & superintendence at the expense of the U.S. for the benefit of the Indian Lenapes & for these purposes the U.S. will employ a Miller & a blacksmith for such term as the President of the U.S. in his discretion may think proper —

Art 5. U.S. to cause those to enter into contracts for the improvements which they have made in the lands ceded to the U.S. which shall be in consideration for the sale of lands ceded —

Art 6. Lenapes to retain possession of which they may not be able to take care by 1 mo. agreed to be appr. by President & proceeds paid to the owners of such property respectively —

Art 7. Expenses of the Chiefs at Washington to be paid by the U.S.

Art 8 — Land ceded by Indians to be expunged at public sale by U.S. after deducting the minimum price of the public lands, the cost of the mills & blacksmith shops for Lenapes, the cost of surveying & those to be sold at their option found in favor of the Indians that they may remove & be entitled to which U.S. will pay 5 per cent on sales of them provided they shall be in the possession of Pres. to the expense of persons entitled residence —

Art 10 Bounties for killing the wolves
— panthers 1 50 bears 1 50

Art 11 Grants to the half breeds

Art 12 The land granted to the Lenapes
exempt to the U.S.

Art 13 Extra annuity of 750 to Chiefs to pay their expenses to Washington & to be enrolled from the date of the

Treaty July 20 1834. made at Cleveland between Wyandots

Art 1st The Lenapes & Shawanoes residing at Anderson Town
300 half breeds cede all the land they had in the
West in exchange to receive a tract of the Reserve
ceded to the Lenapes & Shawanoes —
above exempt that in article 11. the half breeds granted

Art 12. Mondagors residing on the Seneca reservation to receive $2500 annually in the same manner with $2000 to the Catteraugus

Art 13 – Reserves to remain to the Seneca Nation for ever – Day –

Art 14. Special provisions for the Tuscaroras – They agree to remove on 5 years Journey to Ogden & Pulteney 5000 acres of land &c &c

Art 15 – U. S. appropriate $400,000 to aid them in removing to their homes. Subsistence thereafter the 1st year, encourage & assist them in education & in teaching to cultivate their lands, in erecting mills & other necessary houses in purchasing domestic animals, farming utensils & acquiring a knowledge of the mechanic arts

Census taken in 1837.

Number residing on the Seneca reservation		Mondagors at Mondago	300
Senecas	2309	Tuscaroras	273
Mondagors	194	Stockbridges in Depth	350
Cayugas	130	Onedas at Green Bay	600
	2633	Onedas in Depth	620
		Stockbridges	217
		Munsees	132
		Brothertons	360
			2852

Deeds of Conveyance for lands sold by Senecas to the Holland Company & Buffalo & Tonawanda Reservations & Allegany – Deed Conveyance for lands sold by Tuscaroras – Supplemental articles – Containing a grant of the Stockbridge Indians to Senecas (for a small) Mondagors Tuscaroras Cayugas Mondagors

Treaty of May 20 1842 – Recites the foregoing treaty & modifies it so that only the Buffalo & Tonawanda reservations are sold – & the Senecas allowed to continue a city & cartway longitudinal of the Cattaraugus & Allegany Rivers with the same right & title in all things as they had before the treaty leaving to Ogden & Pulteney their right of pre-emption &c

Art 2. Indians confirm the sale of the Buffalo & Tonawanda Tracts –

Art 3. Fixes the mode the value is to be ascertained. 100000 is appropriated for the value of the 4 Tracts & 20000 for subsistence to balance the value of the 2 other tracts –

[illegible] by [illegible]
[illegible] of [illegible] [illegible] [illegible] [illegible]
[illegible] to [illegible] [illegible] [illegible]

Art 5. Power of [illegible] is to be given to Ogden Pilliner

Art 6th. Land after [illegible] or [illegible] remove shall be entitled on forfeiture to [illegible] number to the [illegible] of the [illegible] [illegible]

Art 7. Mis [illegible] to be in lieu of dower under [illegible] [illegible]

Art 8 [illegible] to be [illegible] to be found by Ogden Pilliner

Art 9. No further [illegible] to which Wyoming not to be [illegible] land — to be equal to [illegible] [illegible] of [illegible]

Mr. agree to said [illegible].

2°. Indians who remove under terms of April 4. 1840 entitled to benefits thereof —

3°. 10th article of Treaty for [illegible] April 4. 1840 [illegible] —

REPORT

ON THE

CLAIM OF THE IROQUOIS INDIANS

UPON THE

STATE OF VERMONT,

FOR THEIR

"HUNTING GROUND."

BY TIMOTHY P. REDFIELD, ESQ.

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REPORT.

To His Excellency Stephen Royce:

On the 14th of June last, I was appointed by the Governor to discharge the duties imposed by the resolution of the last Legislature: "That his Excellency "the Governor be requested to take such measures "to ascertain the claims of the Iroquois Indians to "compensation for lands in this state, as he shall see "fit in his discretion, and cause the result of such "examination to be laid before the General Assembly "of this State, at the next session." And I now submit to you "the result of such examination" as I have been able to make.

The Iroquois, who represent the ancient confederacy of "the Six Nations," assert a claim to compensation for lands in this State, with these bounds: "beginning on the east side of Ticonderoga, from "thence to the great Falls, on Otter Creek, and con-"tinuing the same course to the height of land that

"divides the streams between Lake Champlain and "Connecticut river, thence along the height of land "opposite to Missisquoi, and thence to the Bay."

There seems no reason to doubt that the Iroquois had possession of these lands and exercised dominion over the same, until dispossessed by the encroachments of civilization; and had what has been treated by the United States government, in other cases, *title* to these lands; and have never parted with that title by any treaty or compact, to which they, as a tribe or nation, have been a party.

The Chiefs representing the "Six Nations," A. D. 1798, appeared before the Legislature of this State, then sitting at Vergennes, and preferred their claim to compensation for lands situate within this State, defining the boundaries as they now do. The matter was brought to the attention of the Legislature by a communication from Governor TICHENOR, and the Legislature made a small appropriation for their expenses while attending upon the Legislature, and one hundred dollars as a gratuity and token of friendship; and the Governor was empowered to examine their claim, whether the same were founded in justice and equity.

Governor TICHENOR made a report against the claim to the next Legislature, A. D. 1799; and the claim was again presented in A. D. 1800, 1812, and 1826, and has been at all times rejected.

It seems not to have been denied, but substantially conceded, that the claimants, prior to the treaty between Great Britain and France, A. D. 1763, had possession of the lands described as their "hunting ground," and such title as Great Britain and the United States have uniformly treated with respect in their intercourse with the Indian tribes.

It will be seen, by the accompanying papers, that the authorities of this State have, at different times, insisted, that they could not treat with the Iroquois without the consent of Congress; that it would be deemed an agreement or compact with a foreign power,—and thus within the prohibition of the tenth section of the first article of the Constitution. At other times it has been claimed that any agreement touching this claim would be in violation of the act of Congress entitled "an act regulating trade and intercourse with Indian tribes," passed July 22, A. D. 1790—which declares: "That no sale of lands made by any Indians, or any nation or tribe of Indians, within the United States, shall be valid to any person or per-

sons; or to any state, whether having the right of preemption to such lands or not, unless the same shall be made and duly executed at some public treaty held under the authority of the United States."

If this were a proposition strictly to *purchase lands* of a tribe of Indians residing within the jurisdiction of a foreign power, by which the Indian yielded his title and possession upon receiving the stipulated consideration, or the assurance therefor, it would obviously be in conflict with the law of Congress, and doubtless obnoxious to that provision of the Constitution. But inasmuch as the jurisdiction of the State over the territory is not disputed, and the lands have been in the peaceable possession of the citizens of this State for more than a half century, with undoubted title to the same, it is submitted that the State might act in the premises; and, if the Legislature should deem that the Iroquois were entitled, in the "*forum of conscience*," to some *remuneration* for lands long since *granted* and appropriated by the State, and should make appropriation for such remuneration, that such proceeding would neither conflict with the provisions of the act of Congress nor the Constitution. If, however, there were scruples on this point, it would seem obvious that, if it were conceded that there was a *duty* upon the State to pay for these lands, it would be

no less a duty upon the State to provide the legitimate channel, through which such compensation could reach the recipients.

The main objection, however, to the allowance of this claim has heretofore been, that the lands were granted by the King of Great Britain without reservation of Indian titles,—and that the Iroquois were then subjects of the King, and that, by the treaty of 1783, by which jurisdiction to this territory was ceded to the United States, the Indian title became extinguished.

It has also been claimed that the Iroquois were allies of the King of France, in the war between Great Britain and France, which resulted in the conquest of Canada by the former power, and hence, by the treaty of 1763, this claim was extinguished.

The Six Nations, during the "*French War*" and also the war of the Revolution, seem, in the main, to have been attached to the crown of England; although great efforts were made by the French to obtain their alliance during the former war, which at some times and to some extent was successful. Yet, it is not obvious upon what principle, if it be conceded that the Iroquois were allies of France, the ces-

sion of Canada to the crown of England should extinguish the Indian title to lands situate within the British colonies. It is quite certain that the King of England did not so regard it; for there is abundant documentary and incontestable evidence, that from A. D. 1763 until A. D. 1783, the British Sovereign, by his agents, did negotiate with the Chiefs of the Six Nations, and did hold council with them respecting their lands, and, at all times, they were treated as having the undisputed title.

It has also been insisted that the Iroquois lost their title by the treaty between the United States and Great Britain, A. D. 1783,—and this, upon the ground that the Iroquois were not only allies but *subjects* of the Crown of England—and hence that treaty, ratified by the Sovereign, was binding upon all the subjects of the Crown and upon the Iroquois. Yet there seems to be no warrant for asserting that the British Crown did ever assume to convey the Indians' land, or extinguish their title, either by treaty or by grant, without their consent, or that they were regarded as the *subjects* of the Crown. They were the friends of the Sovereign in peace—his allies in war —and as the Crown did treat with them, as an independent power, before the treaty of 1783, so have the United States, since that time.

On the 31st day of May, A. D., 1796, the authorities of New York, through the intervention of Abraham Ogden, a Commissioner appointed by the authority of the United States, concluded a treaty with the Iroquois, then denominating themselves "the Seven Nations," which was duly ratified, and proclamation thereof made on the 31st day of January, A. D. 1797. By this treaty, the "Seven Nations" ceded to the people of the State of New York all title to their adjacent lands situate within the limits and jurisdiction of the State of New York,—and in consideration therefor, said State paid the sum of one thousand four hundred and forty-seven pounds, one shilling, four pence; and made the further stipulation to pay them annually, thereafter, two hundred and twelve pounds, six shillings, eight pence.

It is said by Governor Tichenor, in his report to the Legislature, that in the grants, by the Crown of England, of lands in New York, there was a reservation of the Indian title, while in the grants of *these* lands there was no such reservation, and hence a distinction might well be taken. But it is submitted that the Crown, previous to the Revolution, and the United States since, have never assumed to convey the unincumbered *fee* of the land while in the occupancy of the Indian tribes; but the grantee took the

fee, encumbered with the right of Indian occupancy, and the sole right to extinguish the Indian title.

The Supreme Court of the United States say, in the case Clark vs. Smith, 13 Peters' Reports, 195:

"The ultimate fee, encumbered with the right of "Indian occupancy, was in the Crown previous to "the Revolution, and in the States of the Union "afterwards, and subject to grant. This right of "occupancy was protected by the political powers, "and respected by the Courts, until extinguished, "when the patentee took the unencumbered fee. So "the Supreme Court, and State Courts, have uni-"formly held."

In the case United States vs. Clark, 9 Peters' Reports, the same Court say:

"One uniform rule seems to have prevailed in the "British provinces in America, by which Indian "lands were held and sold from the first settlement, "as appears by their laws; that friendly Indians "were protected in the possession of lands they occu-"pied, and were considered as owning them, by a "perpetual right of possession in the tribe or nation "inhabiting them as their common property, from

"generation to generation, not as the right of indi-
"viduals located on particular spots. Subject to this
"right of possession, the ultimate fee was in the
"Crown and its grantees."

"Indian possession was considered in reference to
"their habits and modes of life; their hunting
"grounds were as much in their actual possession, as
"the cultivated fields of the whites, and their right
"to its exclusive enjoyment, in their own way, and
"for their own purposes, were as much respected
"until they abandoned them, made a cession to the
"government, or an authorised sale to individuals."

The rule seems to have been uniform that discovery vested in the Sovereign the absolute title to lands, as against other powers, but subject to the Indian right of occupancy; and the several Sovereigns of Europe and the United States have ever assumed to grant only what they had obtained. And hence it would seem that Great Britain, by the treaty of 1783, yielded to the United States her claim to *sovereignty* over these lands, and remitted to the latter the same rights that she had claimed to herself. And so far as the Crown had granted these lands prior to the Revolution, the grantee obtained the title, subject to the

Indian right of occupancy, and the sole right to extinguish that claim.

If the Iroquois have been divested of their title, it would seem more legitimate to say that they had been divested, and the title obtained, *by conquest.*

That that ancient and powerful confederacy, which claims to have given the model to our own, have retired before the advancing empire of another great confederacy, and surrendered their lands and *themselves* to its dominion, is confessedly true. Their very weakness, however, is sufficient guaranty that they will be heard. That they will be heard by the representatives of a people whose attribute is justice, is the warrant that their cause will be decided justly.

The early settlers of this State won laurals on the field of Bennington, which have now become the common property of the Union, and there made expenditures which should have long since been replaced from the national treasury; yet the State can forego her claim if she elects so to do. But when a claim is made to *her* sense of justice, by a people having no power to enforce it, and which rests solely in her will and discretion, I doubt not it will be met in the spirit of magnanimity and kindness.

I have gathered such facts as could be readily obtained, and submitted such reflections as have occurred to me, and it remains for your Excellency to act in the premises as to you shall seem meet.

All which is very

Respectfully submitted,

TIMOTHY P. REDFIELD.

MEMORIAL.

"*His Excellency*, ISAAC TICHENOR, ESQ., *Governor of the State of Vermont:*

GREAT BROTHER:

We, the chiefs and councillors of the seven nations, Lower Canada Indiaes, send our love and respect to you and your family by five of our agents, which we, the chiefs, have sent to you to treat about our *hunting lands* that lie in your state: Beginning on the east side of Ticonderoga, from thence to the great falls on the Otter Creek, and continues the same course to the height of land that divides the streams between Lake Champlain and river Connecticut; from thence along the heights of land opposite Missisque, and then down to the bay. That is the land belonging to the seven nations, which we have sent to settle for with you, as we have settled with York State. So we hope you will be pleased to receive our agents, and that it will be settled so that both sides will be contented.

Signed by 20 chiefs of the different nations.

Cognahwaghah, September 29, 1798.

Which memorial was communicated to the Legislature by the Governor, and the following report had thereon:

That their chief claims as their ancient hunting grounds as much land within this state as is contained within the following bounds, to wit: beginning on the east side of Ticonderoga, thence to the great falls on Otter Creek, and continuing the same course to the height of land that divides the streams between Lake Champlain and Connecticut river, thence along the height of land opposite Missisque, and thence to the bay.

And that while the committee are of opinion that they have had a claim to the above described land, by a title arising from an agreement entered into with other nations, the aboriginees of this country, they cannot ascertain whether that title has been extinguished by purchase, conquest, dereliction of occupancy, or in any other way whatever.

At all events, the committee are clearly of the opinion that no settlement can be made with these Indians, respecting their said claims, by the legislature of this state, without permission of the United States; and they found their opinion on the fourth section of an act entitled "an act regulating trade and intercourse with Indian tribes," passed July 22, 1790, which declares that no sale of lands made by Indians, or any nation or tribe of Indians within the United States, shall be valid to any person or persons, or to

any state, whether having the right of preemption to such lands or not, unless the same shall be made and duly executed, at some public treaty held under the authority of the United States.

The committee, under all these circumstances, are of opinion that his excellency the governor be requested to inform said Indians, that when they shall exhibit clear and circumstantial proofs that the claim they now make is founded on the unerring and unalterable rules of justice, and shall produce therewith the necessary documents, authorising this state to treat with them, they will find their brethren ready and willing to maintain inviolable the most friendly intercourse with the Indians of the seven nations, and to do and perform all those acts of kindness and generosity, which their strong principles of justice cannot fail to inspire.

The committee therefore would advise that his excellency be further requested to obtain from the State of New York, all the information he can, and shall deem necessary, respecting a similar claim made by the same Indian tribes on that State, and the nature and extent of the compensation allowed to them thereon, and that he cause to be presented to them, as soon as conveniently can be done, a token of friendship and affection from their brethren of Vermont, in such articles as he shall deem best, not exceeding in value the sum of one hundred dollars; and that he cause their maintenance, while here, to be regularly paid

for. The committee further advise that his excellency be authorised to draw on the treasury of this State for such sums as he shall deem necessary, for defraying the expenses of the whole of this business, not exceeding the sum of ——— dollars, and that the treasurer be authorised to pay the same.

PAUL BRIGHAM, for Committee.

And the Legislature, at their October session, passed the following resolve:

Resolved, The Governor and Council concurring therein, that his excellency, the Governor, be requested to obtain the best information he can respecting the late treaty held between the State of New York and some of the Indian nations, on a claim made by said Indians to lands within that State; and if he shall find that the commissioners appointed by the authority of said State, did not admit the claims of the aforesaid Indians to the lands aforesaid, and if it shall appear to his excellency that the claims lately made by the same Indian nations, to lands within this State, cannot be maintained upon either legal or equitable principles, his excellency, in that case, is hereby authorized and confirmed to appoint a commissioner to go to one or more of the said Indian nations, and under the direction of his excellency, to assign to them the proper reasons, why their claims to lands in this State cannot be admitted.

And at the same session, the Legislature passed the following act:

AN ACT

Respecting a Claim made by some of the Chiefs of the Seven Indian Nations of the Province of Lower Canada, in behalf of the respective nations of Indians, of lands within this State.

WHEREAS, a claim is made by the Indians above mentioned, to a tract of land within this State, contained within the following bounds, viz: Beginning on the east side of Ticonderoga, thence to the falls of Otter Creek, continuing the same course to the height of land that divides the streams between Lake Champlain and the River Connecticut, from thence along the heights of land opposite Missisquoi, and then down to the bay. And whereas, this Assembly feel a strong desire to maintain perfect peace and good understanding with the nations above mentioned, although this claim stands entirely unsupported by any legal or equitable proof hitherto exhibited to this Assembly: And whereas the State of New York have lately held a treaty with the said Indians on a claim for lands of a similar nature to that which is now made by them on this State: Therefore,

SEC. 1. *It is hereby enacted by the General Assembly of the State of Vermont,* That His Excellency, the Governor, be, and he is hereby desired to pursue such mode as he shall think proper for obtaining a full, complete and

official information from the proper department of the State of New York aforesaid, with respect to the nature of the claim made by said Indians for lands within that State, and the termination of the treaty held between the said State and the said Indians in consequence of that claim.

SEC. 2. And it is hereby further enacted, that if his excellency the Governor shall receive information through the channel above described, that the claim of the said Indians was not allowed by the said State, or should be convinced that their claim on this State ought not to be *admitted*, his excellency is hereby authorized and empowered to appoint a commissioner to go to one or more of said Indian nations, and under the direction of his excellency to assign to them proper reasons why their claim to lands within this State can not be admitted, and to transmit at the same time by the said Commissioner to the said nation or nations, some token of friendship not exceeding in value the sum of one hundred dollars.

SEC. 3. *It is hereby further enacted*, That his excellency the Governor be, and he hereby is, requested to cause to be presented to the Indians aforesaid, now in the city of Vergennes, and in such manner and form as to his excellency shall seem best adapted to answer the purpose intended, a present of affection, not exceeding the value of one hundred dollars,—and shall, at the same time, cause their maintainance while they remain within the city of Vergennes, as aforesaid, to be regularly paid.

SEC. 4. *And it is hereby further enacted*, That his excellency the Governor be, and he hereby is, authorized to draw on the treasury of this State for the purpose of defraying the whole of the expense of this negotiation, such sum or sums from time to time as the same shall become necessary to be paid, not exceeding in the whole five hundred dollars. And the treasurer is hereby authorized and required to pay the same out of any moneys that may be in the treasury, not appropriated for other purposes.

Passed November 5, 1798.

REPORT OF GOVERNOR TICHENOR.

Gentlemen of the House of Representatives:

Herewith I do myself the honor to lay before you the result of the inquiries I have made, relative to the claims of the seven nations of Indians of Lower Canada, in pursuance of the act of legislature on this subject, passed at their session in October last. I cannot learn that the State of New York was governed so much by a principle of justice as policy, in the compensation made by them in their late treaty with this people. The claims of the Indians to lands in the State of New York, and for which they received a compensation from that government, I conceive to be somewhat variant from their claims to lands in this State. The greater part of our lands was granted by the King of England without any express reservation of an Indian claim; while the lands in New York were chiefly vacant and the hunting ground of the claimants.

It has not been in my power to obtain any document that would give any accurate information of the ancient claim of these Indians to the lands in question, but from the long and settled usage, principles that have governed

nations in similar cases, I conceive their right, whatever it might have been, extinguished. These Indians, the Cognahwaghahs, are anciently of the confederacy called the Five Nations; which confederacy, or some of that confederacy, might have once had a good right to the territory now claimed.

In the former wars between the English and French, while the English King held the governments of this country, it is believed that the Cognahwaghahs separated from the confederacy, removed into Canada, put themselves under the French, and joined their fortunes with the French King in his wars with the English; the latter being victorious, conquered the French and all their allies, in this country and in Canada; upon which the whole country was yielded to the English in right of conquest.

In the treaty which terminated that war, and which was made for all of those which were united with the French, or were inhabitants or held rights in the province of Canada, reserved certain rights and privileges to all the conquered people of that province. Their rights, so reserved, were considered to extend beyond the limits of that province; in this the Indians acquiesced, for and during all the time the English were in the possession and government of this country. It is also believed that the Indians never caused the voice of their claim to be heard, respecting these lands, during the existence of this government, or at any period since the conquest, or since the grant of these lands by his Britannic majesty.

I may also add that in the year 1775, when the King of England, who had granted these lands, made war upon this country, these Indians were his allies in that war, and thereby subjected themselves and interests to its consequences. The people of the United States were victorious, and the King of England by treaty yielded to the United States all the lands to the south of Canada.

Thus, in my view, the claims of the Indians have been extinguished. Although by the act submitting the examination of the Indian claims to me, it becomes my duty to make known the result of my investigation, to the Indians in the first instance, yet the importance of the subject induces me to lay my views of it before the legislature, and receive further communications as they may direct. The present of one hundred dollars has been received by the Chiefs, and their expenses paid while at Vergennes. No expense has been incurred in the management of this business, except a small sum given by given Judge Hathaway to influence the Chiefs, on their way to attend at this place, to return back.

All which, with due deference and respect, is submitted to the consideration of the Legislature.

ISAAC TICHENOR.

At Windsor, in Council, Oct. 28, 1799.

This communication was referred to a Joint Committee, who, at the same session, made the following Report:

REPORT OF COMMITTEE, OCT., 1799.

That in the opinion of the Committee the claims of the Chiefs of the Seven Nations of Indians of Lower Canada are not founded in justice or equity: that at the time when the territory, comprehended within the said Indian claims, was granted by the British King to his subjects, in fee, the said Indians were a part of said subjects of said King, and under his protection and government: and that at the time of the peace taking place, between his Britannic majesty and the United States, if any such claim, or even balance of claim, before that time existed, it was done away by the treaty of peace then made and ratified between the King of Great Britain and the United States. They therefore recommend to the House to pass the following resolution:

Resolved, That his Excellency the Governor of this State be requested to notify the Chiefs of the Seven Nations of Indians inhabiting Lower Canada, that the State of Vermont has taken all possible care to examine into the merit of the claims mentioned in their communication to his Excellency the Governor, at the city of Vergennes, in October, 1798, and are fully of opinion that their claim, if

it ever did exist, has long since been done away and become extinct, in consequence of the treaty of peace in 1763 between the King of Great Britain and the French King, and the treaty of peace between the King of Great Britain and the United States, of which this State is a part, in the year 1783, and that the said Indians have now no real claim, either in justice or equity.

At Middlebury, in Council Chamber, Oct. 27, 1800.

Mr. Speaker: In pursuance of a Resolution of the House of Representatives, passed in Nov. last, relative to the Indian titles to lands in this State, it became my duty to make known to their people the determination of the government respecting their claims.

In January last, I had a conference with five of their nations, and furnished them a copy of the aforesaid resolution respecting their claim. They alledged, as they were on other business, they could not officially receive it. During the session of the present Legislature a new set of Chiefs, joined by a representation from the Abernaki nation, have come forward, properly authorized to make a final settlement of their claims.

In the repeated conferences I have had with them, I have endeavored to explain to them, in a clear and explicit manner, the reasons which induced the Legislature to de-

cide against the justice of their claims. It would be too tedious, as well as in some measure unentertaining, to detail on paper to the General Assembly, every thing that has passed at the different interviews I have had with their Chiefs. The secretary of Council will lay before you the official papers on this subject, and in particular, my last address to them.

I cannot but flatter myself that they are now fully satisfied, if ever a claim existed, it is wholly extinguished; and although they will not acknowledge it, in their official capacity, yet I am well persuaded that they will not trouble the Legislature in future. As to the hint in the close of my last address to them—that probably the Legislature will give them something to help them in their way home, you will be pleased to take such order thereon as shall seem expedient.

I cannot, however, forbear to remark that in my opinion such measures ought to be adopted as will be calculated to promote the highest harmony and good understanding between them and the good citizens of this State.

I have the honor to be, gentlemen, with due consideration, your very humble servant.

ISAAC TICHENOR.

MEMORIAL.

At the October session A. D. 1812, the following Memorial was preferred, and laid before the Legislature by the Governor.

We, the Chiefs and Counsellors of the Iroquois or Cognahwaghah nation, in mutual council agreed to send the following speech, to our great brother the Governor of the State of Vermont.

Most Honorable Brother: We, the Chiefs of the Iroquois nation, do now, in behalf of the whole nation, speak to you and others who are now sitting with you in the Great Council House.

Most Excellent Brother, now Attend!

We, the red people, have inhabited and owned this island from the time of immemorial. Our land extended from rising to the setting sun, and from the cold regions of the North to the hot climes of the South. The Great Spirit above made it, and gave it to the Indians for their use. He created various kinds of animals for our food

and their skins served us for clothing. He scattered them over this extensive country, and taught us how to kill them. He made the earth to produce Indian corn for bread. He made also the innumerable inhabitants in the great waters to run up and down in our rivers, and taught us how to catch them. The Great Spirit created all these for the use of his red children because he loved them. Great Brother, continue to listen! When your ancestors crossed the great lake, and landed on this Western island, they were poor and few in number. Our fathers had compassion on them, and protected them. They told our fathers they had fled from their own country for fear of wicked men, and had come here to enjoy their religion. They asked for a small tract of land. We, the red people, gave them a seat, and they sat down among us. We instructed them the manner of planting and dressing the Indian corn. We carried them upon our backs through rivers and waters, and when any of them or their children were lost in the woods, and in danger of perishing with hunger or cold, we carried them to our wigwams, fed them, and restored them to their parents and friends. We gave them corn and meat when pinched with famine. We relieved their distresses, and prevented their perishing in a strange land.

Thus you see, Brother, when your ancestors came into our country, you did not find us enemies—but friends. Great Brother, you have now become a great people, but we are decreased and now smaller in comparison to what we once were. Your territory has come to be very large

now, and we poor Indians have scarcely a place left to spread our blankets. You have got our country, and now what shall we say? We say, Brother, in truth we are distressed on account of it. You have settled where we formerly caught moose, deer and bears—and now we know not hardly where to go to find them.

Most excellent Brother, we would now once more request you to continue to listen. We would now remind you that in the year 1798 we met you at your council fire, and we then requested you that you would give us something in compensation annually, for our land, which you have taken possession of. But our Brother, who was then Governor in Vermont, said that in justice and equity the land we claimed did not belong to us.

He required us to exhibit documents as proofs that the land which we then claimed did not belong to us—and this he well knew we could do—as you well know Brother, we are destitute of writings, records, and history. With us, to preserve the memory of our public affairs and transactions, we depend upon our most aged men to keep them in their head and mind. He also required us to furnish the necessary documents authorizing the State of Vermont to trade with us. This he also well knew, we were totally ignorant where to go to find the necessary documents for the State of Vermont to treat with us.

We would now speak a few words to the honorable Representatives of the people of Vermont.

Brethren and Friends: The land we now claim never was purchased of us either by the French or English, and we never sold it to nor was it ever conquered by our Indian brethren, but it always has been in our hands, and when you made settlements upon it, we considered then it belonged to us. And now "In justice and equity it does not belong to us!" Yes, brethren, we believe it belongs to us, and we shall claim it as long as the sun rolls from the East to the West. In the year 1683 our ancestors had a considerable dispute as to the boundary line of the land, which we now claim, with the eastern Indians.

A French Jesuit, who was well acquainted of our claim, wrote the following paragraph to Gov. Dongan, of New York: "The Iroquois, of the Sault St. Louis or Cognahwaghah, have always claimed the country lying in the east side of Lac de Champlain. The boundary is as follows, viz: beginning at the head of Lac de Champlain, running thence east up to the heights of the great mountains, thence north to the Fort Chamblee." Thus you see, brethren, the Jesuit makes it appear that our ancestors have always claimed the land where you now live, and much larger than we do now. We claim as follows: "Beginning on the east side of Ticonderoga, from thence to the great falls on Otter Creek, and continues the same course to the height of land that divides the streams between Lake Champlain and Con-

necticut river, from thence along the heights of land opposite Missisquoi, and down to the bay:" that is the land which we claim.

Now brethren and friends, we do not ask you, that you must give us so much. No, far from that, for we know that you and the brethren in Vermont are generous and kind. We also know that you will do justice to a nation who has been, and is now, much abused and despised—a nation, who have been cheated and driven from their ancient settlements. We do hope and pray to the Great Spirit, that the great governor, the honorable representatives and the good people in Vermont, will have compassion on their red brethren and give them something annually in compensation for their land.

MOST EXCELLENT GOVERNOR, AND RESPECTED GENTLEMEN, REPRESENTATIVES OF VERMONT:

We, the chiefs of Cognahwaghah, have now spoken to your ears of our mind—we hope you will take into consideration what we have said. We wish to live in peace with you, and we hope you will ever consider us your brothers—we hope we shall always live on friendly terms. This is all your red brethren have to say.

The same was referred to a Committee, who made the following report:

To the Honorable General Assembly, now sitting :

Your committee, to whom was referred the talk of the chiefs and councillors, Cognahawaghah Indians, report: That in our opinion it is expedient that a bill pass, appropriating one hundred dollars to be given as a present to the said nation of Indians, and a further sum not exceeding one hundred dollars, to defray the expenses of said chiefs while in this state on their present embassy. And further recommend that the governor have a talk with said chiefs and inform them that we cannot accede to their claim for lands, nor stipulate any annual payment of money; but that we are grateful for their expressions of friendship to us, and feel a corresponding friendship for them, and hope that the same will not be interrupted by the wars with which they are surrounded.

All which is respectfully submitted, by

PAUL BRIGHAM, for Committee.

It is hereby enacted by the General Assembly of the State of Vermont, That there be, and hereby is, appropriated, the sum of one hundred dollars to be paid out of the treasury, as a present to the Indian chiefs now on a visit to the capital ;—and a further sum not exceeding one hundred dollars to defray their expenses while in this state on their present embassy.

Approved Oct. 27th, 1812.

This money, so appropriated, was paid, and the following response was made to the "chiefs," then in attendance:

BROTHERS, CHIEFS AND COUNCILLORS OF THE IROQUOIS OR COGNAHWAGHAH NATION:

I have heard your talk and have told it to the great council of this state. We have all considered it; we now answer: Brothers, we are very glad of your friendship—we love peace. The Great Spirit did not make us to kill one another, but to live in peace, to enjoy his rich bounties, and prepare for happiness. You live among a people at war with us—they have injured us, and our great nation has waged war with them for it. It is for your interest and ours, it is for your happiness and ours, that we should be at peace.

BROTHERS: it has been the policy of our great father and his council to help our red brethren of the west to such things as they could not provide for themselves, and to cultivate peace and friendship with them; but our enemy has told them wicked and wrong stories—so that our chain of friendship has become dull and broken, and war with all its horrors has taken the place of peace. Brothers, we love justice,—it is an attribute of the Great Spirit. You love it as well as we. We don't think we have injured you. We don't complain that you have injured us. We have bought our lands a great while ago. We have paid a great deal of money for them. You love justice,—you

don't want we should pay for our lands again. We can't get back the money we have paid for them.

Brothers: let us forget the past,—let us enjoy the future,—let us live in peace.

We have much confidence in your wishes for our good, and we are anxious for your good; we shall not fail to recommend you to our councils in future. Brothers, you say "we have become a great people." True. The Great Spirit has blessed and increased us. He loves us and makes us love peace. He makes us willing to fight where we can't have peace. We are a great nation. We, the Vermonters, are only a little part of that great nation. We are cemented to the whole by our great charter. If we break that charter we forfeit its protection. In that charter are these words "No state shall, without the consent of Congress, enter into any agreement or compact with a foreign power."

So you see, brothers, we can't agree to pay you money annually without an act of congress. You see we are *just*—not to break our great charter which binds us to our nation, our great charter that binds our nation to protect us. You love justice. You approve it in us. We hail you as friends. We hail you as brothers. We tender you our friendship: we solicit yours. We pray the Great Spirit to make them both perpetual. Thus you have the end of our

talk. Receive, brothers, this small testimonial of our friendship and sincerity.

At the October session of the Legislature, A. D. 1826, fourteen Chiefs of the Iroquois again memorialized the Legislature, of which the following is a copy:

To the Honorable, the House of Assembly of Vermont, one of the United States of America :

The humble Memorial of the Iroquois tribe, residing in Cognawaghah village, commonly called Sault St. Louis, situated in the district of Montreal, in the province of Lower Canada, in the said North America,

The undersigned, head chiefs of the above tribe, in the collective names of its members, have the honor to represent to you with the most humble submission, that they make a part of the descents of the aborigines, inhabitants of North America. That their ancestors and themselves, as their descents, have from time immemorial enjoyed and possessed peaceably and without any interruption, until the rupture between the North American colonies and Great Britain, a certain tract of land situate, lying and being on the east side of Lake Champlain consisting in the following extent, viz : Beginning at the line of division between the said state of Vermont and the province of Lower Canada, thence running south alongside east shore of said lake, and up to the Otter river inclusively, thence from the mouth

of said river, following its course to its sources, thence about a northeast course, following the summit of a chain of mountains until it will intersect the line of division between the said Vermont state and the province of Lower Canada.

That under the French and British Government, and during their respective possessions of the above tract of land, they (your memorialists), never were troubled or molested in any manner whatsoever; on the contrary, it was known and acknowledged by those governments to be your memorialist's property. They were protected and supported in the full and peaceable enjoyment and possession of it —where they used to fish and hunt exclusively to any other persons—for the use and maintenance of themselves and families.

But now they see with sorrow, that since many years they have been dispossessed of their fathers' inheritance, by force, and deprived of enjoying it as they did from immemorial time—being at present in the possession and occupied by persons, who pretend to be the real proprietors of it—in virtue of legal titles from the state of Vermont.

It is notorious that this tribe never have relinquished or given any titles, or ever received any compensation or recompense for their rights to the said land, nor for any part thereof. So that your memorialists are dispossessed of their property without their consent, without any indemnifica-

tions whatsoever, and deprived of the only means they had to support and maintain their families, and find themselves confined to such a narrow state of limits, that they are most reduced to want.

Your memorialists beg leave to inform you that seven years ago they did present similar remonstrances to the house of assembly of the state of Vermont, and having not received an answer to it, they take the liberty to renew their reclamations.

Being well convinced by experience of the justice and equity shown by the different branches of the United States' government in their proceedings, your memorialists apply with the most respectful confidence to your honorable body, praying that you would be pleased to take into consideration their claims and unhappy situation, and order that they shall be reinstated into the full and quiet enjoyment of their just rights, as fully and amply as their forefathers and themselves did heretofore enjoy it, or otherwise determine what you, in your wisdom, may judge just and equitable in such case, for the satisfaction and happiness of your petitioners.

And they will ever pray as in duty bound.

{ Signed by fourteen
{ Chiefs of the Iroquois.

This memorial was submitted to the Legislature by Governor Butler, and the same was then referred to a committee, of which Mr. Chauncey Langdon was chairman, who made the following report:

To the Hon. General Assembly now sitting, the committee to whom was referred the memorial of the Iroquois tribe of Indians report:

That in Oct. 1798, the same tribe of Indians presented a similar petition or memorial to the legislature of this state, and a respectable committee was appointed, report made thereon and accepted, which report recommended that the governor make diligent inquiry into the foundation and evidence of their claim, and communicate the same to the then next session, and one hundred dollars was given them to defray their expenses in coming to and returning from the legislature.

In pursuance of this request, the governor of this state inquired into the foundation of their claim, and communicated the result of his examination to the legislature of this state, at their October session, A. D. 1799, that he could not find any evidence of their title or claim, and that if any claim ever existed, it has been long since extinguished by conquest in the war between the English and French, when the United States were colonies of Great Britain—and their tribe of Indians attached to the crowm of France, and the territory included in said memorial was included in the treaty of peace made and concluded in 1763.

They further find that this tribe of Indians then or before moved within the new limits of Canada, and have resided there ever since, and have owed allegiance to and been under the protection of the King of Great Britain—that by that treaty of peace the whole claim or title, if any ever existed, was completely extinguished.

And your committee are of opinion that if any doubt existed respecting the said claim after the treaty of 1763, that doubt has been removed, and every equitable claim completely extinguished, by the treaty of peace between the United States and his Britannic majesty in 1783, and all right and title transferred to the United States.

Your committee further find that a representation of the same tribe of Indians again presented their claim to the legislature of this state at their October session in 1800, and after repeated interviews between them and the governor of this state, representing and explaining to them in a clear and decisive manner, that if their ancestors ever had any claim to the lands in question, it had been long since extinguished, and in consequence of their personal attendance the legislature presented them the sum of fifty dollars to defray their expenses, without recognizing any right or claim in law or equity.

Your committee further report that the chiefs of the same tribe again presented their petition at the session of the legislature in October, 1812, and the legislature gratui-

tously granted them two hundred dollars to conciliate their feelings, without recognizing any right or claim whatever :

Whereupon, your committee recommend to the legislature the consideration and adoption of the following resolution :

Resolved, The governor and council concurring therein, That the governor of this state be requested to notify the petitioners, that the state of Vermont have often fully examined the merits of their claim to lands within this state, set forth in their petition, and have now re-examined the same, and are of opinion that if any claim ever existed in their ancestors, it was done away and extinguished in the treaty of peace in the year of our Lord 1763, between the King of Great Britain and the King of France,—and also in the treaty of peace in 1783 between the United States and the King of Great Britain : and that the petitioners at this time have no claim or interest either in law or equity to any of the lands described in their petition.

Which is respectfully submitted,

C. LANGDON, for committee.

REPORT

OF THE

COMMISSIONER,

APPOINTED BY THE GOVERNOR,

ON THE

CLAIM

OF THE

IROQUOIS INDIANS.

MADE TO THE LEGISLATURE, NOV. 3, 1855.

MONTPELIER:

E. P. WALTON, JR., PRINTER.

1855.

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REPORT.

To the General Assembly of the State of Vermont, now in session:

On the 22d day of January last, I was appointed by his Excellency, Governor Royce, a Commissioner, to discharge the duties indicated by a resolution adopted at the last Legislature of Vermont: That the Governor be directed to appoint a Commissioner to ascertain the amount and extent of the claim of the Iroquois Indians upon this State for compensation for land formerly owned by them in this State, and that said Commissioner be fully empowered to negotiate said claim, and ascertain what sum, to be paid by this State, will satisfy the same. and report the result of their investigations and negotiations to the next General Assembly of this State. And I now submit to the Legislature the result of my investigations and negotiations, with said Iroquois Indians, together with such facts as I have been able to gather, from the early history of this people.

In the year 1609, a Frenchman by the name of Champlain, in company with several other Frenchmen, and about one hundred of the Canadian Indians, started from Quebec, upon an expedition against their enemies, the Iroquois Indians,

Champlain's object was to explore the country, and to assist the Canada Indians in their wars against the Iroquois Indians.

After leaving the River St. Lawrence they struck another river, which the Indians called Iroquois, and soon reached a lake by the same name, to which Champlain gave his own name. As they proceeded up the lake, they soon came in sight of the Green Mountains, upon the East side of the lake, and upon inquiry of the Indians, Champlain was told that this was the country of the Iroquois, but that their enemies lived still farther to the south, upon the west side of the Lake, where the country was thickly settled with the Iroquois.

It was subsequently ascertained that the Iroquois were a very powerful confederacy, consisting of the Mohawks, Onondagas, Oniedas, Cayugas, and Senecas; each having their own territory, but had united together for the common defense of their own country, and also for prosecuting their wars against their enemies, and extending their own dominions. The Mohawks resided in the Valley of the Mohawk River, and it was subsequently admitted by the people of New York, and by historians, that their territory did extend into the present limits of Vermont, and that they had some few settlements in the Valleys of Vermont, at a very early day.

Immediately after the settlement of the Province of Lower Canada was commenced by the French, their Jesuit Missionaries went in every direction, among the natives of the forest, with a two-fold purpose. One was

to bring them over to the interests of the French, and the other to induce them to embrace the Roman Catholic faith.

In this project they were very successful, and as early as 1670 to 1676, they induced a large portion of the Mohawk nation or tribe, to emigrate to the province of Lower Canada near Montreal, where they built a church, and soon after swore allegiance to the French Government.

The other portion of the Mohawks remained upon their own territory, and were the firm friends of the English during the French and English war, and so continued until the Revolution, when they still adhered to the interests of the English, and emigrated to the Province of Upper Canada, under the influence of the Johnson family.

From a subsequent negotiation and settlement of their respective claims by the State of New York, it is evident that those who emigrated to the province of Lower Canada, commonly known as the Caughnaugas, are the rightful claimants upon Vermont for compensation for their lands.

From the Caughnaugas, there was an emigration in the year 1759, to a place called St. Regis, and in 1780, another portion emigrated to a place called the Lake of Two Mountains, both of which tribes I have allowed to participate in common with the Caughnaugas, in the investigation of this claim.

In relation to the Iroquois having parted with the title to their lands in Vermont, there seems to be but very little evidence upon the subject.

It was claimed by the people of New York, at a very early day, that the Dutch had purchased this territory, extending to the Connecticut river, of the Indians, and that New York had taken it, by conquest, from the Dutch; and New York, then a British Colony, claimed the territory under a grant of Charles Second to the Duke of York.

The British government also claim that large grants of land were made on both sides of the Lake, at an early day, by the consent of, and agreement with, the Iroquois Indians.

But I find no written documents to substantiate these claims. Still, it may be some evidence of these claims of New York, that the Iroquois, who claim this territory, left it at so early a period, and set up no claim for about a century and a quarter, to their lands, or for compensation.

Since the Iroquois emigrated to the Province of Lower Canada, there seems to be no evidence that they have occupied this territory, more than other tribes of Indians, but upon this point there is but very little history.

The habits and customs of the Indian tribes of the country, at an early day, were such, that the occupation of any territory for the purposes of hunting and fishing, rendered the possession of that territory as really theirs, as though they had cultivated fields, built houses, &c.

Hence, when we look at their former mode and habit of living, their ability to understand legal questions,

as practiced by enlightened nations, and the legal bearing of their own actions, they are all to be construed in their favor.

If they have parted with the title to their lands, it has usually been for a mere pittance, or at best, for a very small compensation.

I therefore recommend the claim of this unfortunate people, to the favorable consideration of the Legislature.

By a previous arrangement, I met the agents and deputies of the several Tribes interested in this claim, at the United States Hotel, in the Town of Massena, N. Y., on the 14th day of last June, and the following is the result of our investigations and negotiations.

All of which is very respectfully submitted.

JAMES M. HOTCHKISS.

MASSENA, STATE OF NEW YORK, June 14, 1855.

Present, J. M. Hotchkiss, Commissioner on the part of Vermont, and Joseph Kanataklah and Francis Athorishon, from Caughnauga, Rev. Eleazer Williams, St. Regis.

Gentlemen of the Iroquois :

The General Assembly of the State of Vermont, on the 14th day of November, 1854, adopted the following resolution :

Resolved, That the Governor be directed to appoint a Commissioner to ascertain the amount and extent of the claim of the Iroquois Indians upon this State for compensation for land formerly owned by them in this State, and that said Commissioner be fully empowered to negotiate said claim, and ascertain what sum, to be paid by this State, will satisfy the same, and report the result of his investigations and negotiations to the next General Assembly of this State.

On the 22d day of January, 1855, I received from his Excellency, Stephen Royce, the appointment of Commissioner to discharge the duties indicated by said Resolution.

Having caused the parties interested in this claim to be duly notified of the time and place of holding this meeting, I am now ready to proceed with the investigation.

Before proceeding with the investigation, allow me to inquire if the Iroquois Indians, designated by the foregoing Resolution, are all represented at this meeting.

Answer by Rev. Eleazar Williams.—There is a branch of the Iroquois at the Lake of Two Mountains, numbering about 258 souls which are not represented at this meeting. The notice of this meeting failed to reach them in season for them to attend. The American branch at St. Regis are not represented here, but have received due notice of this meeting.

The Commissioner considering it of the utmost importance that all the tribes interested in the claim against the State of Vermont, should be notified of this meeting, here suspended the investigation and adjourned to Wednesday the 20th inst., and caused a dispatch to be sent to the Chiefs of the Lake of the Mountains, notifying them to attend this meeting, if they have any claim to prefer against the State of Vermont.

MASSENA, June 20, 1855.

Present, James M. Hotchkiss, Commissioner on the part of Vermont, and Francis Athorishan and Joseph Kanataktah, who presented to the Commissioner the following instrument.

CAUGHNAWAGA, June 12, 1855.

This is to certify, that, this day, we the undersigned, Grand Chiefs, appoint and authorize as our Agents and Representatives, in all matters concerning the claims of the Iroquois Tribe of Caughnawaga, which lieth in the State of Vermont. Whatever shall be done by these two persons whom we duly authorize are to know and acknowledge as such, we shall bind, as though we were together. The two appointed are *Francis Athorishan* and *Joseph Kanataktah.* We name also the Interpreter, who has been since the year 1852, seventh of November, who has interpreted upon the communications of the claim, is Rev. Eleazer Williams our Interpreter.

[Signed,]

GRAND CHIEFS:

JOSEPH KENTORONTIE,
LOUIS TIORAKARON,
JOSEPH TAIORONIOTE,
THOMAS ASENNASE,
MARTIN SHAKORAIATAKWHA,
LOUIS SHATEKAIENTON.

Present on the part of the Iroquois at St. Regis, representing the British party, Rev. Eleazer Williams, who presented to the Commissioner the following Instrument:

Know all men by these presents, that we, Swasen Teiosharakwente, Tier Kanewatron, Rawi Tarakonnente, Rawi Atawenta, Thomas Tahate, Chiefs and principal men of the St. Regis Indians, do hereby irrevocably make, constitute and appoint Eleazer Williams of Hogansburgh, of the State of New York, our true and lawful attorney, with power of substitution, for us and in our names, places and stead, to contract, treat, negociate and bind said Tribe of Indians, and to release all debts, claims and dues of said Tribe, and to *transact all business* of all kinds, pertaining to their interest, and he is fully authorized to receive from the State of Vermont any pay or compensations for lands within the limits of said State, and to discharge all liabilities, claims or dues for such lands, from the State of Vermont, and in all things fully release all such claims and forever bind the St. Regis Indians and several members of said tribes respectively. And we do hereby and herewith empower our said attorney in our names, to give receipts and other sufficient discharges for such moneys due or claimed to be due as aforesaid; or sum as the State of Vermont may grant, hereby ratifying and confirming whatever our said attorney shall do in and about the premises by virtue hereof. In testimony whereof, we have hereunto set our hands and seals in the name and behalf of the St. Regis Indians, this third day of February, Anno Domini, 1855.

Signed and Sealed in presence of A. Fulton.

SWASEN TEISHORAKWENTE, LS.
TIER ⋊ KANEWATERON, LS.
KAWI ⋊ TARAKONNENTE, LS.
RAWI ⋊ ATAWENTA, LS.
THOMAS TAHATE, LS.

State of New York, } On the third day of February, in the
Franklin County, ss. } year 1855, personally appeared before me the individuals described in, and who executed the above power of attorney, and severally acknowledged that they executed the same for the purposes therein mentioned.

ALFRED FULTON,
Justice of the Peace.

Present on the part of the Iroquois at Lake of the Mountains, Joseph Ononkwatkona and Francois Sasametest, Chiefs of said Tribe.

Present, on the part of the American party at St. Regis, Louis Taioroniote, Michel Gavanety, Peter Skatekaienton, denominating themselves trustees of said Tribe.

Gentlemen of the Iroquis :

The meeting for investigating and negotiating your claim against the State of Vermont is now open.

By the resolution which I have read in your hearing, adopted at the last General Assembly of the State of Vermont, the Legislature virtually admit that there may be some ground for the claim of the Iroquois Indians against the State. It became the duty of the Commissioner, to ascertain who the Iroquois Indians, designated in the resolution, were ; and after a thorough investigation of the subject, the Commissioner came to the conclusion that the tribes at Caughnawaga, the tribes at St. Regis and the tribe of Iroquois at the Lake of Two Mountains, are the proper and only tribes for the Commissioner to meet and negotiate with. We are now prepared to proceed with the investigation. As the representative of the people of the State of Vermont, I shall endeavor to conduct the negotiations in behalf of the State, in a fair and honorable manner.

You will observe by the resolution under which we are now acting, that a report of the investigations or negotiations of this meeting, or any subsequent meeting, is to be submitted to the next General Assembly of the State of Vermont, for their approval or disapproval, as they in their judgment, shall think just and right.

Objection was made by the agents from Caughnawaga against admitting the agents from the Lake of Two Mountains to participate in this claim, upon the ground that they are not descendants of the Caughnawaga, they say that they have no record of their separation.

The Chiefs from the Lake of Two Mountains replied, that they separated from the Caughnawagas about the year 1789, and soon after emigrated to the Lake of Two Mountains; they have always claimed, and still claim, to belong to the Iroquois and relatives of the Caughnawagas and St Regis tribes. The St. Regis admit that they are of the Iroquois nation and entitled to participate in the claim against Vermont.

The Commissioner overruled the objection of the Caughnawagas, and the Chiefs from the Lake of Two Mountains were allowed to participate in the investigations, in common with the other agents.

Interrogatory by the Commissioner.

Gentlemen :

What is the amount and extent of your claim upon Vermont for compensation for the lands you originally claimed in said State?

Brother :

We, the agents and deputies on the part of the Grand Chiefs of the Iroquois Indians at Caughnawaga, St. Regis and Lake of Two Mountains, are very happy in meeting you as Commissioner on the part of our brethren of Vermont. It is a long time since our fathers presented to the Grand Council of Vermont, their claim to their ancient hunting ground in said State. In behalf of said Iroquois Indians we return you many thanks for the several sums of money paid to our said agents from time to time, for which we most willingly acknowledge.

You now desire to be informed as to the amount and extent of our claim upon the State of Vermont for compensation for the land originally claimed by us in said State.

In answer, we refer you to the report of Mr. Redfield, as well as to our frequent memorials to the General Assembly of Vermont, beginning A. D. 1798. We now ask for pay for all lands lying northerly of a strait line from Ticonderoga to the great falls of Otter Creek, (called Sutherland's Falls,) from thence to be continued to the top of the Green Mountains, thence along said mountains which divide the water that runs into Connecticut river and the water that flows into Lake Champlain and Missisquoi river, to the latitude of 45°.

We are of the opinion that there is east of the New York line, within this tract or territory, much more than two

millions of acres of land, exclusive of the waters of Lake Champlain, and including the islands not ceded to the State of New York by the Treaty of A. D. 1796. As relates to the value of this, our hunting ground, We, on behalf of the Iroquois Indians of Caughnawaga, St. Regis and Lake of Two Mountains, Indians, propose to you, Mr. Commissioner, to relinquish to the State of Vermont our claims to said territory upon the following condition, viz: We propose to take into consideration at least twenty of the most favorable treaties made between the United States and different tribes or nations of Indians within the past thirty years, wherein lands by said Indians had been ceded to the United States. As you have so long occupied our ancient hunting ground, and thereby deprived us in a great measure of the means of maintaining our numerous families, you in honest justice ought to pay to us an average price equal to the average price per acre of said twenty treaties by us selected, whatever shall prove to be the average sum per acre, by the United States, for cessions of lands embraced in said twenty treaties, shall be the sum to be paid to us by the State of Vermont, for our hunting ground.

Brother: in your report to our Father Governor Royce, you will request him to consider well this our first proposition for settlement, and that he will present it to the members of your Grand Council when assembled at your Wigwam in October next. We say to you, Brother, that we will be present, ready to hold a further conference with you, in hopes that we shall make a final settlement and to our mutual satisfaction.

The foregoing is respectfully submitted to the consideration of the Commissioner by his friends and brothers, the deputies.

MASSENA, June 21, 1855.

Brothers :

I have listened attentively to your speech of yesterday, and considered it well. In your speech you propose to relinquish to the State of Vermont all claim to territory you have described, as your ancient hunting ground, provided the State of Vermont will take into consideration twenty of the most favorable treaties made between the United States and different tribes of Indians within the last thirty years, wherein lands by said Indians have been ceded to the United States. And further, you ask that the average price of the land per acre, ceded in those treaties, shall be considered the price per acre of your ancient hunting ground in Vermont. Said treaties to be selected by you.

Brothers: This appears to me to be a very indefinite way of arriving at any proper conclusion. If your proposition was to be accepted, it might be exceedingly difficult, and be attended with great expense, to ascertain what the price per acre of the lands ceded to the United States would be, as most of the treaties are for the extinguishment of the Indian claims, and no number of acres defined. But your proposition appears to be wholly inadmissible.

In the first place, you will observe, that many of the Indian tribes were living upon their lands at the time the treaties were made with them, and had valuable improvements, and their titles to their lands undisputed, and their lands at so late a period had become very valuable. Your title to lands in Vermont is not only doubtful, but it is utterly denied, and it has never been admitted that you have any legal claim; and you only ask for compensation for the lands your ancestors once occupied as their hunting ground. You say in honest justice that the people of Vermont ought to pay you, as specified above, from the fact that they have so long lived upon your ancient

hunting ground, and thereby deprived you in a great measure of the means of supporting your numerous families.

You will please to observe, that your ancestors left their ancient hunting ground and emigrated to Canada about the year 1676, and placed themselves under the Crown of France, aud soon after swore allegiance to his Majesty's government, became the allies of the French and the enemies of the English and American Colonies. Had your fathers chosen to have remained on your hunting grounds in Vermont (if they ever occupied them,) they might have done so until their title should have been extinguished by purchase in a fair and honorable manner; and that sense of justice, which has always been prominent with the people of Vermont, in all their transactions with their neighbors, warrants the belief that they would not have endeavored to obtain it in any other way. But the country was found to be vacant at an early day, and grants of lands were made to the people of Vermont, first by the Governor of New Hampshire; then New York claimed the territory of Vermont upon the ground that it was a Dutch province, and that the Dutch had purchased it of the Indians, and New York, then a British province, had taken it by conquest from the Dutch, and by a grant of Charles Second to the Duke of York in the years 1664 and 1674 of the disputed territory. Whether the lands in Vermont were ceded to the Dutch in an early day, as claimed by New York, I have no further means of knowing; but one thing is certain, that the king of Great Britain, when the territory was claimed by New York, made grants of land extending upon the territory which you claim in Vermont, without requiring a previous purchase from you, or any other nation, or tribe of Indians; which is a very strong proof against the existence of any title, in you, to the lands your ancestors owned in Vermont.

Many of the early settlers of Vermont, after purchasing their

lands from New Hampshire, repurchased them from New York, and after continuing the controversy with New Hampshire and New York for a quarter of a century or more, it was finally settled by the State of Vermont paying New York the sum of thirty thousand dollars to relinquish her claim to the territory of Vermont.

So you see, Brothers, that the people of Vermont have already paid very dear for their lands.

It was not my intention to enter into any very lengthy argument relative to the merits of your claim, only sufficient to show you that it is of a very doubtful character, and will probably be so regarded by the Legislature of Vermont. The Commissioners on the part of New York with whom you treated in 1796, so regarded it, and only settled and paid you some thing for the lands you claimed in the State of New York, that they might give contentment, and live in good neighborhood with you. So, I apprehend, it will be with the Legislature of Vermont. If they are induced to give you any thing for the extinguishment of your claim, it will be upon the ground of giving mutual satisfaction; and the amount they may be induced to give, will depend very much upon the merits of your claim.

Brothers, I now wait for you to give a definite answer to one part of my inquiry, viz:

What is the amount of your claim against the State of Vermont for your ancient hunting grounds?

In fixing on a definite sum, you will allow me to suggest, that, the smaller the sum you claim, the greater will be the probability that the Legislature will allow it.

Brother:

In answer to your two first questions given us in writing, Friday last, we had no idea of giving offence: We claim the privilege of answering in our own way; for want of better information, possibly some portions of our answer may be considered surplusage, or in other words, inadmissable. - Brother, in answer to yours of this day, we observe that you are not well pleased with ours of yesterday, as regards the price of our hunting grounds in Vermont. As Indians, we did suppose that the people of Vermont would be willing to pay us poor Indians as much per acre as the United States Government pay other Tribes or Nations of Indians for their hunting grounds.— Brother, we have well considered your answer to us of yesterday, and have concluded to make the people of Vermont, through you, a further offer, as we are very desirous of being considered just, honest, and generous. We now say further, the people of Vermont may have their choice, either to pay us four cents per acre for our hunting grounds lying easterly of the New York state line, after deducting that portion of the waters of Lake Champlain, or an average of the twenty treaties as communicated in our answer of yesterday; or you may pay us $89,600, at such time as may hereafter be agreed upon. Brother, we say that we have in our possession volumes of treaties published by the general government, and other official documents, from which we learn the date of each treaty, with whom made, the amount ceded to the United States in acres, the sum paid in consideration of said cessions, from the origin of government to A. D. 1840. The same documents are in your State Library. Therefore, Brother, it is a very easy matter for our Brothers of Vermont, to examine for themselves; we prefer the privilege of selecting the twenty treaties; we most willingly give our Brethren their choice.

Brother: as regards that portion of your answer to ours of

yesterday as relates to our equitable or legal claim to our hunting grounds in Vermont, we have taken good counsels and say in brotherly love, that we consider our claim on our ancient hunting grounds in Vermont just in equity, and that we are legally entitled to a reasonable compensation. We are prepared to make many quotations from the decisions and records of the white men, in our favor. We forbear at present from making but one extract. Brother, we refer you to the second page, second paragraph, of Mr, Redfield's report:

"There seems no reason to doubt that the Iroquois had possession of these lands and exercised dominion over the same, until dispossessed by the encroachments of civilization; and had, what has been treated by the United States Government, in other cases, title to these lands; and have never parted with that title by any treaty or compact, to which they, as a tribe or nation, have been a party."

Brother, this extract, with others on page tenth and eleventh, from said report, justifies us in believing that our claim on Vermont is just and equitable.

All the foregoing is respectfully submitted to the Commissioner, by the Deputies.

The meeting was now adjourned, until the first Monday after the second Thursday in October next, at Montpelier, Vermont.

MONTPELIER, October 15, 1855.

The agents of the Iroquois met the Commissioner agreeably to adjournment, and again adjourned to October 17, 1855.

MONTPELIER, Oct. 17, 1855.

Gentlemen of the Iroquois.

I have listened attentively to your second proposition, which is to pay you four cents per acre, or the sum of eighty nine thousand six hundred Dollars, for your ancient hunting ground in Vermont.

You seem to infer from my reply of the 21st June, that your language, or manner of speaking, in a previous proposition had given me offence. In this you are mistaken, your language and manner of expression are very acceptable, your proposition was wholly inadmissible.

In your last proposition, your refer to Mr. Redfield's report, to substantiate a legal claim to a reasonable compensation for your lands in Vermont. The paragraph to which you refer, is as follows :

"There seems no reason to doubt, that the Iroquois had possession of these lands and exercised dominion over the same, until disposessed by the encroachments of civilization, and had what has been treated by the United States Government in other cases, title to these lands; and have never parted with that title by any treaty or compact, to which they, as a tribe or nation have been a party."

I have already shown you in a previous reply, that you forsook your country, as early as 1675 or 1676, and yourselves admit that you left your country even earlier than this period, and emigrated to the province of Lower Canada, near where you now reside, which was then a French province ; you then swore allegiance to the French Government, became their allies in War, and the inveterate enemies of the English colonies in America. At this early period there was not a white inhabitant residing within the present limits of Vermont, neither was there any settlements of white persons in Vermont, to any extent, for nearly half a century subsequent to that period.

When you left your hunting grounds, and emigrated to Can-

ada, you left a wilderness and went into the midst of civilization; Montreal and the adjacent country, was at that time, quite numerously settled by the French.

In relation to your having parted with your title to your hunting grounds, there seems to be but very little evidence upon the subject. The fact that your ancesters abandoned their lands at so early a period, and no claim or ownership was set up for nearly a century and a quarter, seems pretty conclusive evidence that they had parted with their title in some manner, in a very early day.

I find by examining the Documentary history of New York Vol 1, Page 582, that the board of trade at London declare, that by agreement with the Iroquois Indians, the land on both sides the Lake to a very great extent, was granted by the Governors of New York, to British Subjects, a long while previous to the year 1731. There is other testimony which goes to prove the same facts.

Your last proposition of $89,600, is entirely out of the question, and unless you should think proper to make a very different proposition, I shall feel myself under the necessity of declining your proposition altogether. In your treaty with New York, A. D. 1796, you accepted a sum equivalent to about twenty thousand Dollars, and extinguished your claim to a tract of country much larger (if I mistake not) than what you claim in Vermont.

There are many reasons why your claim upon New York for compensation, was better than it is upon Vermont. The first, and perhaps most important is, that you were living upon your lands in New York, and had been for a great number of years, which is very good evidence that you had not parted with the title, nor did not intend to abandon them. If you have any further propositions to make, I am now ready to receive them.

JAMES M. HOTCHKISS, *Commissioner.*

MONTPELIER, October 18, 1855.

Mr. Commissioner on the part of the State of Vermont:

In reply of our last meeting at the State House, we will say, in the very commencement of our Father's communications upon this State, was in the year 1798, for compensation for their hunting grounds within the State, for which they claim and ask compensation, and have visited the Honorable Assembly of the Legislature, up to A. D. 1826. Several appropriations were made for their expenses while attending upon the Legislature, as a gratuity, and token of friendship, and have always been rejected, not coming to a final settlement; but have not ceded a dollar's worth of the lands which they claim in Vermont, to any Government whatever, upon said claim on Vermont. And our ideas in the year 1852, were the same as our forefathers'. communications for compensation for land in this State, and did not in the least intend to make any price whatever, as we had full confidence in the generosity of the people of the State of Vermont; and our communication did not have any effect at this Session.

We again visited your respectable House, the preceding year in 1853—the Legislature were at their session; we were then listened at, and instructions were given us to have our communication entered into the House of Representatives. Mr. Redfield was then appointed to make a Report at the next Session, in relation to our claim in Vermont.

At the next Session of 1854, we again presented our claim at your council fire, at your wigwam in the city of Montpelier, and renewed our claim. We then waited to witness whether our communication should succeed or have it ended by the Legislature. Our brotherly thanks to those who pitied and respected us, so far as putting life to our communications, which was through the goodness and kindness and humanity, also from the good feelings of the people of Vermont; it is true that joy went through our whole Iroquois Tribe, when the Report

was made by us of being in hopes of coming to a final settlement, for our compensation.

As to the Iroquois ever abandoning their claim upon Vermont by leaving it as their hunting grounds, and have always hunted upon the same, since the time they emigrated to the river St. Lawrence, from the wilderness in which their support contained, in the year 1660, or thereabouts. There seems sufficient proof by the expedition of Champlain, in 1609, for the name Iroquois Country would be deemed sufficient proof that though this country was exercised as their hunting ground, but did not part with that title, although they emigrated into Canada, and did not cross the lines of their Territory, but still remained on the south side of the River St. Lawrence, and will ever bear the name Iroquois Country, till the name Iroquois is constrained off; the State of Vermont, by trade in relation to compensation, the aforesaid hunting grounds. The Iroquois Indians had not parted with that title, for they kept fighting all the other tribes or nations of Indians, and expelled them off, as it were from off their farm of produce.

But in as much as you do not accept of our proposition for compensation for our hunting ground, we have now come to the conclusion to make you the following proposition viz: We propose to submit our claim directly to the Legislature of Vermont, and rely upon the justice and Humanity of the Government of Vermont, and desire to have no debate upon the sum that ought to be paid, but prefer to hear from said Government through their commissioner, and we trust that the christian benevolence, and strict moral rectitude and equity of the Legislature will authorize the Commissioner to make us such a proposition as we in justice to ourselves and our people ought to accept, and we hereby agree to relenquish all claim upon Vermont, in consideration of such sum or sums of money as the Legislature shall appropriate for that purpose; all of which is

respectfully submitted by the Deputies. We now wait to hear from the Legislature upon the subject.

[Signed.]

FRANCIS D. ATOHASHOSHOR,
SO SE TAIOVONIOTE, } Delegates of Caughnawaga.

JOSEPH KANATAKTAK PHILLIPS,
Secretary for the part of Caughnawaga Indian Tribe.

his
LOUIS ⋊ TAIORONHISTHE,
mark
his
PETER ⋊ SAKOIATENTHA,
mark
his
PETER ⋊ SATEKAIENTON,
mark
} Delegate of St. Regis.

his
JOSEPH ⋊ ONONKWA TKOWA,
mark
Delegate of Lake of Two Mountains.

ANTOINE BARON,
Interpetor for the St. Regis and Lake of Two Mountains Iroquois Indians.

MONTPELIER, October 19, 1855.

Gentlemen of the Iroquois.

I have listened attentively to your last proposition, which is to submit your claim, without further debate, to the Legislature; which proposition I very readily accept, trusting that the Legislature will be willing to do you ample justice,

J. M. HOTCHKISS.

34TH CONGRESS, 3d Session. } SENATE. { EX. DOC. No. 13.

REPORT

OF

THE SECRETARY OF THE INTERIOR,

COMMUNICATING,

In compliance with a resolution of the Senate of the 17th instant, information respecting the title of the United States to certain land in Kansas set apart to the New York Indians.

DECEMBER 30, 1856.—Read, ordered to lie on the table and be printed.

DEPARTMENT OF THE INTERIOR,
Washington, December 26, 1856.

SIR: In answer to a resolution of the Senate of the 17th instant, I have the honor to communicate herewith, for its information, a copy of a report of the Commissioner of Indian Affairs, dated the 22d instant, being a "statement of the condition of the title of the United States to all that portion of the Territory of Kansas designated as being set apart and assigned to the New York Indians, and the nature of the authority by which said tract has been so assigned."

I am, sir, very respectfully, your obedient servant,

R. McCLELLAND,
Secretary.

Hon. J. D. BRIGHT,
President of the United States Senate.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, December 23, 1856.

SIR: In reply to a resolution of the Senate of the United States, adopted on the 17th instant, in the following words:

"*Resolved*, That the Secretary of the Interior be requested to communicate for the information of the Senate, a statement of the condition of the title of the United States to all that portion of the Territory of Kansas designated as being set apart and assigned to the New York Indians, and the nature of the authority by which said tract has been so assigned;" which was referred by you to this office on the 18th instant, I have the honor to state:

That by article second of the treaty with the New York Indians concluded at Buffalo creek, in the State of New York, on the 15th day of January, 1838, the tract of land referred to in said resolution, described as follows, "beginning on the west line of the State of Missouri, at the northeast corner of the Cherokee tract, and running thence north along the west line of the State of Missouri twenty-seven miles to the southerly line of the Miami lands; thence west so far as shall be necessary, by running a line at right angles and parallel to the west line aforesaid to the Osage lands, and thence easterly along the Osage and Cherokee lands aforesaid to the place of beginning, to include one million eight hundred and twenty-four thousand acres of land, being three hundred and twenty acres for each soul of said Indians, as their numbers are at present computed," was set apart by the United States as a permanent home for all the New York Indians then residing in the State of New York, or in Wisconsin, or elsewhere in the United States who had no permanent homes.—(Vide treaty published by authority, Statutes at Large, volume 7, page 550.)

It was further provided by the said 2d article of said treaty, that the Indians should have and hold the said land in fee simple, by patent from the President of the United States, issued in conformity with the provisions of the third section of the act entitled, "An act to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the Mississippi," approved May 28, 1830, (Statutes at Large, vol. 4, p. 411,) with full power and authority to divide the same among the different tribes, nations or bands composing the said New York Indians, in severalty, with the right to sell and convey to and from each other, under such laws and regulations as might be adopted by the respective tribes, acting by themselves, or by a general council of the New York Indians, acting for all the tribes collectively.

By the 3d article of said treaty, it was further provided, that such of the tribes of the New York Indians, as should not accept and agree to remove to the country so set apart for their new homes within five years, or such other times as the President might, from time to time appoint, should forfeit all interest in the lands so set apart to the United States.

The consideration for the grant of the above mentioned tract was the relinquishment to the United States by the New York Indians of all their right to, and interest in, a certain tract of land at Green Bay, Wisconsin, secured to them by the Menomonee treaty of 1831, containing about five hundred thousand acres, including all the improvements of the New York Indians on the west side of Fox river.—(Statutes at Large, vol. 7, p. 343.)

The aforesaid treaty having been amended by the Senate was ratified by that body on the 11th day of June, 1838, and the amendments being assented to by the Indians the same was, by the President's proclamation of April 4th, 1840, to take effect from that day.

No general removal of the New York Indians, or of any separate tribe of them, has ever taken place under the foregoing provisions of said treaty; but in the year 1846, about 200 of their number were collected through the instrumentality of a Dr. Abraham Hogeboom (but

without the authority of the government) and departed for their western home.

Many of this band died shortly after their arrival at their reserve in Kansas. Some of them returned to New York, and the remainder still continue on and near the lands assigned them by the said treaty.

At the time of entering into the treaty of January 15, 1838, the Seneca nation, preparatory to removing to their new home, sold and conveyed four reservations belonging to them, situate in the western part of the State of New York, known as the "Buffalo Creek Reservation," the "Cattaraugus Reservation," the "Allegany Reservation," and the "Towanda Reservation," with the assent of the United States, to Thomas L. Ogden and Joseph Fellows, for the consideration of two hundred and two thousand dollars.

Difficulties having subsequently arisen between the Seneca Indians and the said purchasers relative to the sale of said reservations, and the rights of the respective parties therein, for the purpose of settling and compromising the same, on the 20th of May, 1842, at Buffalo creek, in the State of New York, another treaty was negotiated between the United States and the said Seneca Indians, whereby, after reciting the previous treaty of 1838, and the former sale to Ogden and Fellows of said reservations in New York, it was by the 1st article provided, that the said Indians should have the right to possess and enjoy the said Allegany and Cattaraugus reserves, with the same right and title in all things as they had and possessed therein before the said sale to Ogden and Fellows, "saving and reserving to the said Thomas Ludlow Ogden and Joseph Fellows, the right of preemption, and all other, the rights and title which they then had or held in or to the said tracts of land."

In further reference to these two tracts, the 6th article of said treaty provided as follows:

"It is hereby agreed, and declared to be the understanding and intent of the parties hereto, that such of the said Seneca nation as shall remove from the State of New York under the provisions of any treaty made, or to be made, between the United States and the said Indians, shall be entitled, in proportion to their relative numbers, to the funds of the Seneca nation; and that the interest and income of such their share and proportion of the said funds, including the consideration money to be paid to the said nation in pursuance of this indenture, and of all annuities belonging to the said nation, shall be paid to the said Indians so removing at their new homes; and whenever the said tracts, called the Allegany and Cattaraugus reservations, or any part thereof, shall be sold and conveyed by the Indians remaining in the State of New York, the Indians so removing shall be entitled to share in the proceeds of said sales in the like proportion," &c.

By the second subdivision of the concluding article of this treaty the United States consent and agree that any number of the said nation who shall remove from the State of New York under the provisions of the said treaty, proclaimed on the 4th of April, 1840, shall be entitled, in proportion to their relative numbers, to all the benefits thereof.

The said treaty of the 20th of May, 1842, was proclaimed and took effect on the 26th of August of the same year.—(See Statutes at Large, volume 7, page 586.)

Having thus become repossessed of a part of their lands in the State of New York, with the unlimited right to remain thereon, no measures to effect the removal of these Indians to the west of the Mississippi, by themselves or the government, have been taken, except by the company which left with Dr. Hogeboom, hereinbefore mentioned; neither do any of the tribes manifest any desire or present intention to emigrate.

Such of them as did thus remove are undoubtedly entitled to have secured to them all the benefits provided by the said treaties, both in land and money, in proportion to their numbers; and the department has endeavored to have the whole of the reservation in Kansas maintained, and, as far as practicable, guarded against the encroachments of white settlers, until it should be determined, either by further legislation or by treaty, what rights, if any, therein remain to such of the New York Indians as have not removed from that State, and in what manner the interests of those who have emigrated shall be secured or definitely established.

This statement seems to answer the inquiries contained in the resolution of the Senate, and it is not deemed necessary or pertinent to express any opinion as to the present or future rights of these Indians still remaining in New York to avail themselves of the provisions of the said treaties as regards emigration when they shall have finally disposed of their lands in that State, that is to say, of the Allegany and Cattaraugus reservations.

The present prosperous and contented condition of these tribes induces me to believe that they will not soon or voluntarily seek to change their residence, even if the right to do so should be conceded under the treaties above mentioned; and the large quantity of land that is now withheld from settlement awaiting the determination of their rights in this respect would seem to demand further legislation upon the subject.

Very respectfully, your obedient servant,

GEO. W. MANYPENNY,
Commissioner.

Hon. R. McCLELLAND,
Secretary of the Interior.

To the friends of the Indians and of the rights of human beings, in Buffalo.

Brethren, the great & rich men of your city, who do not like the Indians & wish to get them out of their way have, as we are told, signed a petition to the Senate, that the treaty proceedings have been concluded with undue haste by Mr Gillet may be satisfied with the delay. We are told also, that they say in their petition that none but fair & honorable means were used to obtain signatures to that treaty. We do not know what they call fair & honorable means, but we do know, that an unprecedented system of bribery, & its accompanying evils has been put in operation & pursued with unremitting diligence. We do know, that after wearying us out with nearly or quite a month of solicitation & importunity in councils and elsewhere

they were able to obtain only 23 signatures in open Council. While the 22. remaining names were put upon the treaty in the Tavern. Many of all the individuals were locked up with the Commissioner in a private room Many of them in the night. & one at least testifies that he was drunk when he signed it and did not know what he had done till sometime after wards. Whether the others were constrained by violence or bought by money or stupified by medicine or liquors it is impossible for us to ascertain. but we do know that they refused to sign the treaty in open Council in the face of daylight. But in consequence of their ~~signing~~ in this clandestine manner we are about to be driven from our homes by compulsion. While left than 200. out of 2.200 are ~~willing~~ in the least degree in favour of the treaty: for this reason we desire

our friends who are unwilling to patronize violence & oppression, carried into effect by fraud & falsehood, to interpose in our behalf & remonstrate against the ratification of the treaty. All we ask of the Govt. & all we wish our friends to ask for us is that we may not be violently deprived of our rights. We are willing to have an equitable division made between those who wish to go & those who wish to stay, & to have a treaty concluded on such grounds, & no other.

If our brethren will be friendly their voice will reach the ears of the President & Senate and avoid something at least in our behalf. And the blessing of God will come upon you for your kindness.

This request is made in behalf of our nation; — accordance with the wish of our [illegible]

on Constitution

1 12 12

35TH CONGRESS, 1st Session. } SENATE. { REP. COM. No. 86.

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 24, 1858.—Ordered to be printed.

Mr. CLARKE made the following

REPORT.

[To accompany Bill S. 166.]

The Committee on Claims, to whom was referred the memorial of Eleazer Williams, report:

In this case the memorialist claims pay for services rendered by him to the United States, in procuring lands from the Menomonee and Winnebago Indians, in the then Territory of Wisconsin, for the use of the New York and St. Regis tribes. These services were rendered at various times from 1819 to 1832, and resulted in the treaties of 1827, 1831 and 1832, between the United States and said tribes.

The history of embassies sent by the New York Indians to the Green Bay country, in Wisconsin, and of the negotiations at Butte des Mort in 1827, and of those leading to the treaties with the Menomonees and Winnebagoes in 1831–'32, extending from 1829 to the ratification of the treaty of October, 1832, with the Menomonees, contains evidence of the connexion of Mr. Williams with the interests and transactions of the New York tribes. He was reputed to be a half-breed of the St. Regis tribe, and was sent by them, and recognized as their agent, and as such signed various articles, treaties and memorials.

In a letter to the Hon. John H. Eaton, then Secretary of War, dated December 5, 1830, General Cass, in recommending Mr. Williams as a sub-agent at Fox river, says: "He rendered essential service to the United States during the late war, in which he was actively engaged and badly wounded, the effect of which will probably continue during life. I understand that he enjoyed the confidence of one of our highest and most distinguished officers, and bravely led a heavy column in the battle of Plattsburg. He is a gentleman of education and talents, and from his position and associations can render important services to the government and the Indians."

At the treaty made at Buffalo creek, in the State of New York, 15th January, 1838, with the New York Indians, there is this special provision for the St. Regis tribe, viz:

"*Article* 9. It is agreed with the American party of the St. Regis Indians, that the United States will pay to said tribe, on their removal west, or at such time as the President shall appoint, the sum of $5,000,

as a remuneration for moneys laid out by said tribe, and for services rendered by their chiefs and agents in securing the title to the Green Bay lands, and in removal to the same; the same to be apportioned out to the several claimants by the chiefs of the said party and a United States commissioner, as may be deemed by them equitable and just."—(7 Stat. 552.)

By this treaty, the New York Indians ceded their lands, at Green Bay, to the United States for certain lands lying west of the State of Missouri, set apart for permanent homes for the Indians.

Mr. Williams appeared at the council which negotiated this treaty, and signed the treaty as the sole chief and agent of the St. Regis tribe.

In a supplemental article to this treaty, done at the council house at St. Regis, on the 13th February, 1838, there was this further provision, viz:

"The United States will, within one year after the ratification of this treaty, pay over to the American party of said Indians one thousand dollars, part of the sum of $5,000 mentioned in the specific provisions for the St. Regis Indians, anything in said article contained to the contrary notwithstanding."

The memorialist contends that this sum of $5,000, provided in the treaty of January 15, 1838, was for the purpose of repaying the St. Regis Indians the sum of $1,000, for monies advanced by the tribe in the procurement of the lands at Green Bay, and for paying Mr. Williams the sum of $4,000, for services rendered in procuring and settling the title to those lands, and in fixing the boundaries thereof.

And, in this view of the matter, the committee think Mr. Williams is sustained—

1st. By the language of the treaty.

2d. By the statement of Mr. Schermerhorn, commissioner in 1836 to treat with the New York Indians, and who negotiated the preliminaries of the treaty of 1838.

The treaty of January 15, 1838, was finally concluded by R. H. Gillet, commissioner, who says, in a communication to the Indian Office dated 25th March, 1853: "The preliminary arrangements for that treaty were made by my predecessor, to whom I was referred for such information as I might need. Nearly every original paper connected with that treaty was burnt with my office in 1839." Thus it appears that the preliminary arrangements of Mr. Commissioner Schermerhorn were to be recognized as the basis of the treaty, and that the original papers, which might have afforded a solution of all subsequent questions arising out of its execution, were destroyed by fire soon after the conclusion of the treaty, while in the commissioner's custody.

By the act of 1846, $1,000 was appropriated for the payment of that sum, as designated in the supplemental article.

Prior and repeatedly since that payment was made, Mr. Williams applied to the President for the $4,000 claimed as belonging to him. In 1850 he submitted, amongst others, a paper signed by eighteen of the tribe, and representing themselves as the "chiefs and warriors," fully recognizing and conceding the claim of Mr. Williams.

In 1852 Congress made an appropriation for the fulfilment of the treaty, as follows, viz: "For payment to the American party of the St. Regis Indians, (less the sum of $1,000, &c.,) as a remuneration for moneys laid out by said tribe, and for services rendered by their chiefs and agents in securing the title to the Green Bay lands, and in removal to the same, agreeably to the provisions of the ninth article of the treaty with the Six Nations of New York, of 15th January, $4,000."—(10 Stat., 18.)

S. Osborne was appointed commissioner, as required by the treaty, and in the discharge of his duty, under instructions from the department, he held a council with the chiefs of the American party of the St. Regis Indians, but the parties failed to agree. The chiefs claimed the money, as an annuity to the tribe, to be paid *per capita*, while the commissioner came to the conclusion that most, if not all, of the money rightfully belonged to Mr. Williams. No other person claimed any portion of it for any services or expenditures in regard to the Green Bay lands—that being the specific object for which it was stipulated to be paid. The commissioner declined to pay the money to be distributed *per capita*, as claimed by the tribe, and so reported to the department; whereupon he was directed to return the money, which being done he was discharged.

Marcus F. Johnson was then appointed commissioner, in place of Mr. Osborne, with instructions that the department had decided against the claim of Mr. Williams, and that he should "regard its decision in that respect as final and conclusive." Mr. Johnson, accordingly, proceeded to St. Regis, and on the 23d June, 1853, apportioned the money, giving to two chiefs $450 each, and to other individuals of the tribe $7 each, *per capita*.

After a full and careful consideration of the facts and circumstances of the case, the committee are clearly of opinion that this sum of $4,000, by the terms and intent of the treaty, was not to be paid to the tribe *per capita*, but to their "chiefs and agents" "for services rendered;" and that the department exceeded its proper authority by directing the commissioner to reject the claim of Mr. Williams, and prescribing how the money should be disposed of. By the terms of the treaty the money was to be paid to the parties, and for the purposes therein named, as the commissioner and the chiefs should deem just, and not to such parties or in such manner as the department and chiefs should subsequently agree upon.

By that decision of the department Mr. Williams was deprived of any further opportunity of vindicating and establishing his claim before the commissioner, as contemplated by the treaty, and thereby, (as we think,) deprived of his just pay for services rendered, and the money intended for that purpose was misapplied.

In accordance with these views, the committee report a bill for the payment of the four thousand dollars to Mr. Williams, to which, they think, he is justly entitled, as well for valuable services rendered to the government, as by the true intent and meaning of the parties to the treaty.

35TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 459.

ELEAZER WILLIAMS.

[To accompany Bill S. 166.]

MAY 29, 1858.

Mr. COLFAX, from the Committee on Indian Affairs, made the following

REPORT.

The Committee on Indian Affairs, to whom was referred Senate bill No. 166, for the relief of Eleazer Williams, report:

That at the treaty made at Buffalo Creek, New York, January 15, 1838, with the New York Indians, there is a special provision for the St. Regis tribe, that $5,000 shall be paid to said tribe on their removal west, as a renumeration *for moneys laid out by said tribe*, and *for services rendered by their chiefs and agents* in securing the title to the Green Bay lands.

At this council Mr. Williams, who was reputed to be a half-breed of this tribe, appeared and signed the treaty as their sole chief and agent. And in a supplemental article to said treaty, signed at the St. Regis council house, on the 13th of February, 1838, it was provided that $1,000 of this sum of $5,000 should be paid over to the American party of said tribe, which was done in 1846.

The memorialist contends that the remaining $4,000 was well understood to be intended to pay him for services rendered in this treaty, (under the latter branch of the appropriation above,) for procuring and settling the title to these lands, &c. Unfortunately the original papers connected with the treaty, and which the memorialist claims would have sustained his claim, were all burnt in 1839, in the office of R. H. Gillett, commissioner. And this is substantiated by the statement of Mr. Schermerhorn, the commissioner who negotiated the preliminaries of the treaty of 1838.

In 1850 Mr. Williams submitted a paper signed by eighteen chiefs and warriors of the tribe, fully recognizing and conceding his claim.

In 1852 Congress made an appropriation of this amount of $4,000 to fulfil the treaty, repeating the language used therein; and Mr. S. Osborne was appointed commissioner to carry it out. Holding a council with the chiefs, they failed to agree. They claimed it as an annuity for the tribe, to be paid *per capita*, while the commissioner, after a thorough examination, came to the conclusion that most, if not all, of the money rightfully belonged to Mr. Williams. *No other person* claimed

any portion of it for any services or expenditures in regard to the Green Bay lands; that being the specific object for which it was stipulated to be paid. The commissioner, therefore, declined to make the payment as claimed by the tribe, and so reported to the department; whereupon he was directed to return the money, which being done he was discharged

Marcus F. Johnson was then appointed commissioner, with instructions that the department had decided against the claim of Mr. Williams, and that he should regard its decision, in that respect, as final and conclusive. Mr. Johnson accordingly paid, in 1853, $450 each to the chiefs, and $7 to each of the individuals of the tribe, *per capita*.

By the treaty of 1838 the money in question was to be paid according to the decision of "the chiefs of said party and a United States commissioner," but not in accordance with the decision of any department whatever.

The committee, therefore, agree with the report of the Senate's Committee of Claims, that the department erred in their instructions, and thereby deprived Mr. Williams of the further opportunity to vindicate and establish his claim before the commissioner as contemplated by the treaty, and that therefore the money intended for this purpose was misapplied. Mr. Williams, having signed the treaty as the chief and agent of these Indians, being the only person who claimed any portion of it for any services or expenditures in regard to the lands in question; having had the decision of the impartial United States commissioner in his behalf, and the certificate of eighteen chiefs and warriors of the tribe fully recognizing his rights, thus complying with the conditions of the treaty, from which the chiefs only receded when they saw the opportunity of obtaining the money themselves; and the papers which more fully substantiate his claim having been destroyed by fire, for no negligence of his own, we recommend the passage of the Senate's bill.

35TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 460.

BENJAMIN E. EDWARDS.

[To accompany Bill S. 186.]

MAY 29, 1858.

Mr. SANDIDGE, from the Committee on Private Land Claims, made the following

REPORT.

The Committee on Private Land Claims, agreeing substantially in the report made by the Senate's committee on Senate Bill 186, adopt it as their own, and report the bill back to the House without amendment, and recommend its passage.

IN THE SENATE OF THE UNITED STATES, *March* 8, 1858.

Mr. BENJAMIN made the following report:

The Committee on Private Land Claims, to whom was referred the claim of B. E. Edwards to certain land in New Mexico, have had the same under consideration, and adopt and submit the following report, heretofore made by the committee upon this case:

On the 16th day of August, 1847, the land commissioners for the county of Bexar, and State of Texas, issued to one Andres Flores a certificate for 640 acres of land as a "head right," of which the following is a copy:

STATE OF TEXAS, *County of Bexar.* } 640 acres, No. 444, second class.

This is to certify that Andres Flores has appeared before us, the board of land commissioners for said county, and proved, according to law, that he arrived in this State previous to the 1st of October, 1847, and that he is a single man, and has resided in the same three years, and performed all the duties required of him as a citizen, and never having received a certificate for the quantity of land now applied for, he is entitled to six hundred and forty acres of land.

Given under our hands and the seal of the county court at San An-
[L. S.] tonio this 16th day of August, A. D. 1847.

THOMAS WHITEHEAD
Chief Justice and ex-officio Pres't Board Land Comm'rs.
JAMES B. LEE, WM. SMALL, } *Commissioners.*
Attest: THOS. H. O. S. ADDICKS,
Cl'k County court Bexar county, ex-officio Cl'k B. L. Comm'rs.
By BEN. E. EDWARDS, *Deputy.*

35TH CONGRESS, 1st Session. } SENATE. { EX. DOC. No. 73.

REPORT

OF THE

SECRETARY OF THE INTERIOR,

IN ANSWER TO

A resolution of the Senate relative to the claim of the St. Regis Indians to land in Kansas.

JUNE 14, 1858.—Read, and ordered to be printed.

DEPARTMENT OF THE INTERIOR,
June 14, 1858.

SIR: I have the honor to transmit, in response to Senate resolution of the 2d instant, a copy of the report of the Acting Commissioner of Indian Affairs, to whom it was referred.

There is, as will be seen from the report, no information on file in the Indian Office in relation to the right of the St. Regis Indians to lands in Kansas; the Acting Commissioner, however, expresses the opinion, in which I entirely concur, that the St. Regis have no claim whatever to the lands in Kansas set apart for the New York Indians.

With great respect, your obedient servant,

J. THOMPSON, *Secretary*.

Hon. J. C. BRECKINRIDGE,
President of the U. S. Senate.

DEPARTMENT OF THE INTERIOR,
Office Indian Affairs, June 12, 1858.

SIR: I have the honor to acknowledge, by reference from you, the receipt of the following Senate resolution of June 2, 1858, viz:

"*Resolved*, That the Secretary of the Interior communicate to the Senate such information as his department may afford, concerning any right or claim of the St. Regis Indians, now residing in the State of New York, to any contingent, conditional, or other interest in the lands set apart for the New York Indians, in Kansas, or in the Indian territory, and whether the Canadian portion of the St. Regis Indians has any such interest."

The only information that this department can furnish in response to the foregoing resolution is that which is contained in a treaty consummated at Buffalo Creek, on the 15th of January, 1838, with the New York Indians.

By the provisions of the second article of which treaty, there was set apart for the occupancy of the New York Indians, including the St. Regis band, a tract of country in what is now the Territory of Kansas. And the third article looked to their removal within five years from the date of the promulgation of the treaty by the President of the United States, which event occurred on the 4th day of April, 1840. Within five years thereafter the St. Regis Indians had, however, taken no steps towards removal, nor until recently have they even intimated a desire to remove.

Having thus evidently failed to avail themselves of the provision for their removal, upon which their right to the country depended, it has been determined by the department that they have forfeited all right or interest which they might otherwise have had in the tract of country set apart by the treaty.

As to the Canadian portion of the St. Regis Indians, this office has no hesitation whatever in expressing the opinion that they have not the shadow of a right to any part of the tract in question.

The resolution referred is herewith returned.

Very respectfully, your obedient servant,

CHARLES E. MIX,
Acting Commissioner.

Hon. J. THOMPSON,
Secretary of the Interior.

"Tawlk" or

(Copy) Speech of Capt. Bruff, commander at Fort Niagara, to the Indians who assembled there, in Sept. 1796, after that Fort & other frontier posts within our territories had been surrendered — (those frontier posts having been long withheld by the British after the Revolution, on pretext of non-fulfilment by the United States of the provisions of the treaty which ostensibly closed the Revolutionary contest.)

(vide letter of Capt. Bruff, dated Sept. 25, 1796, and the reply of the Indians (including Red Jacket) to this speech of Capt. Bruff.)

June 1850. Mary O'Reilly

"Sachems and brother warriors of the Six Nations, residing within the territory of the United States:

I welcome you to Niagara.

We have met, brothers, to brighten that chain of friendship which is stretched out to you, to your brethren on the western waters, and to the whole world. — A proof of this — these western posts that have so long been withheld, are at length given up without the shedding of blood; and a good understanding now subsists between the United States & the British Government. Lines are fixed, and so strongly marked between us, that they cannot be mistaken, and every precaution taken to prevent a misunderstanding. Within these lines, you hold large tracts of land — in the sure and peaceable possession of which, the United States have taken care to secure you as their own children & citizens; & if any remembrance of former animosities yet remain, let us bury them in the grave of forgetfulness.

Brothers — As we have become near neighbors, it will be our interest that we shall also be good friends.

Be assured, you will experience in us a disposition to cultivate harmony and a good understanding,

and that we hope to find the same disposition in you.

As a pledge of the sincerity of these professions, and as a token of regard, the President of the United States has charged me with, and I now have the honor to present you, a flag of our nation. May the lustre of its stars illuminate the western world; & while the increase of its stripes give to our friends a confidence of our ability to protect them, may they also admonish such as would disturb our peace, of our power to chastise them.

Brothers — thus far (I conceive) I have spoken by authority derived from the Father of our country — the President of the United States:

Indulge me a moment while I speak in behalf of this garrison, the commander of which has honored me with.

You know, better than I do, that there is no road by which cases provisions and other necessaries can be sent us from our settlements so that in winter all communication by water is cut off — that the land between this (Niagara) and the Genesee River is yours, and without your permission we will not attempt to widen, mend or straighten your roads, which at present is scarcely passable, but which, if done, will not only be an accommodation to this garrison — to our settlers on the Genesee, and our British neighbors on the opposite shore — but to yourselves also: Nor will our making use of it in common with you, injure your property, or invade your rights — the road, as well as the country, being yours.

I wish you, therefore, to consult together; & if you agree with me in sentiment, give us permission to widen, mend & straighten the road to Canawagoras.

Brothers — As guardian of the honor, rights & interest of my country, in this quarter, my duty makes it necessary for me to take notice of a practice I have already represented to the British Commandant on the opposite shore as wrong.

While the British held this post, they also claimed the sovereignty of the country quite to our settlements. It was then a practice, and the precedent is yet contended for, to employ Indians to pursue deserters on the American side of the line & the Genesee River. Such pursuits are now improper. The British will not permit them on their side the water, because they justly consider it an infraction of the rights of nations. What is a violation of rights on one side, must be so on the other.

This practice, therefore, if permitted in, may involve the two Governments in very disagreeable disputes — now perhaps in your power to prevent, but which, if you encourage, may terminate very unpleasant to both countries & to yourselves.

I therefore request that you will admonish your brethren <u>not to meddle with disputes between white people</u>, of so delicate a nature. Our differences, experience may have taught you, will not benefit you, but your interference may involve us very disagreeably. For, if I know the interest & wish of my country, it is for peace. But, however they disposed, she ought not, she cannot, and I am persuaded will not, tamely suffer her territory to be violated, her sovereignty on this side the water to be disputed, and her rights contemptuously to be trampled on. I beg you, therefore, to restrain your people from a practice, the pernicious consequences of which I have taken some pains to put in a proper light.

Brothers — Yesterday, you received some refreshment. To-day there is a further supply provided & ready for you. When we have finished our business, which I hope will be soon, <u>I have a barrel of Rum to present you</u> — that you may, with your brethren you left to keep up your fires in your absence, <u>drink prosperity to the United States</u> — health & long life to our President. I wish my supplies would afford

you those necessaries you solicit — have been in the habit of receiving here — and appear to want.

But, when you reflect that I command but the advance of the American troops intended for this post, and that my stores must consequently be small, you cannot expect much. Such as they are, you have partaken of.

May your stay here be pleasant. May we part satisfied: And on your return, may the Great Spirit take you under his care — so that you may arrive safely at your respective homes, & find all you left behind you in security — your friends & connexions well.

Niagara, Sept. 21 ~~20~~. 1796. J. Bruff, Captain Commanding

(vide Reply of Red Jacket, & Farmer's Brother)

The "talk" of Capt. Bruff was copied by my friend Thomas from the original found among the papers of Complanter & Red Jacket — Capt. Bruff having given the document to the Indians, & they having never shown it to the British commander on the Canadian side of the River, as stated in Bruff's letter of Sept. 25, 1796. These papers are important in several respects.

The language of the Indians on this occasion led Robt. Morris to cancel (or not send) the letter he had prepared, under date of Dec. 26, to President Washington — as the hostility of the Indians to the "Great Eater" (as they styled Robt. Morris) led him to forbear presenting a request at that time for the appointment of a U.S. Commissioner to attend a treaty whereby Morris might cancel the Indian title. As you look on question of time, the deed may date the following year (1797) July 1797. Henry O'Reilly

Pioneer Settlements in Western New York — The "Genesee Country," as it was originally styled.

Personal memoir of Thomas Morris,
(Son of Robert Morris* of the Revolution)
concerning the settlement of the Genesee Country.
(Prepared by request of Henry O'Reilly,
and read before the New-York Historical Society, by MOR. in Feb. 1852.)

The country called the Genesee Country, was originally claimed both by the States of New York and Massachusetts — Commissioners having been appointed in 1786, by both these States, to settle their claims, as well to the jurisdiction, as to the right of soil; on the 16th December in that year, the latter was ceded to Massachusetts, and the former to New York.

In 1787 or 1788, Messrs Gorham and Phelps, purchased from the State of Massachusetts, the pre-emptive right to the territory, that had been thus ceded to her. (See paper, marked "Schedule No 4.")

I am possessed of no evidence, shewing the amount of consideration money paid, or contracted to be paid, for this territory; but my recollection is, that it was seventy thousand pounds.

Subsequent to this purchase, Messrs. Gorham and Phelps prevailed on the Legislature of Massachusetts to take back the four millions of acres west of the Genesee river, and to reduce the amount of their purchase money to thirty one thousand pounds. (See account marked "Gorham and Phelps' account Sales of Genesee lands")

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(* vide "Life of Robert Morris" at conclusion of this Memoir MOR.)

On the 8th July 1788, Messrs. Gorham and Phelps extinguished the native claim to these lands. (See Schedule No 4) The amount paid to the Indians, including presents for the lands thus sold by them, appears from the accompanying account current, to have been a principal of four thousand three hundred and nine pounds, and an annuity of five hundred dollars.

On the 18th November 1790, my father, (the late Robert Morris of Philadelphia) bought of Messrs. Gorham and Phelps, twelve hundred thousand acres of the lands, to which the native title had been extinguished. I have no document, shewing the amount paid for this purchase; but my recollection is that it was Seventy thousand pounds.

In the year 1791, my father sold, thro' his agent, William Temple Franklin, (a grandson of Doctor Franklin) to Sir William Pultney, and Governor Hornby, the lands he had bought from Messrs. Gorham and Phelps. (See instructions to A. Hooper) I have no document shewing the amount of consideration money, but my recollection is, that it was seventy thousand pounds Sterling. The property purchased was conveyed to Captain Charles Williamson, who was appointed by the purchasers their agent and attorney to manage the same.

You will perceive from my father's letters, and his instructions to Col. Samuel Ogden, that when he sent that Gentleman to Boston, as his agent, in January 1791, to purchase from the government of Massachusetts, the four millions of acres, which they had received back from Messrs Gorham and

Phelps, that he had contemplated that those gen=
tlemen would be concerned with him to the extent of
one half, and that they had the option of becoming so;
but they having declined to be concerned on the terms
asked by the State, my father became the sole pur=
chaser. Whether the title derived from the State
was, in the first instance, vested in Mr. Ogden, and
by him transferred to my father, or whether the
conveyance was direct from the State to my father,
I do not know; the Records in the Secretary of State's
Office, where all these deeds are recorded, will shew
how this is. The number of acres contained in this
purchase was computed to be four millions; and,
though I have no papers shewing the amount paid
for them, my recollection is, that it was One hundred
thousand pounds, Massachusetts money.

Some of the speeches and papers, accom=
panying this Statement, shew, that in the year
1790, a Treaty was held by Colonel Pickering,
with the Six Nations, at Tioga. It appears from
a speech of Cornplanter's to Genl. Washington,
and the President's answer to it, in the month of
December of the same year, that a Conference had
been had between some of the Seneca Chiefs, in
Philadelphia, and Genl. Washington. At this Con=
ference, as you will observe from Cornplanter's
speech, he complained of having been imposed upon
by Mr. Oliver Phelps, whom he charged with not
having paid to the Senecas, the full amount that
he had agreed to give for the lands purchased from
them. From this charge, you will also perceive,
that Mr. Deane, who was the Interpreter at the

Treaty, when that purchase was made, in his deposition, entirely exonerates Mr. Phelps. In the same Speech, Mr. John Livingston is charged with having practised a deception on them, in procuring a lease of their country.

In giving an account of this latter transaction, I must observe, that I am not in possession* of any document whatever, in relation to it, and that the Lease in question, and the proceedings of the Legislature annulling it, and the energetic manner in which Governor George Clinton dispossessed those who had settled on a part of the Military tract, under titles derived from Mr. Livingston, had all taken place, a short time before I became an inhabitant of this State. My statement therefore, is derived from the representations that were current and undisputed, shortly after these events took place; and from what I have frequently heard the late Judge Egbert Benson (then a distinguished Member of our State Legislature, and who took an active part in annulling Mr Livingston's lease) say on this subject.

Prior to the adoption of the present Constitution of the United States, the Constitution of this State, forbad a purchase from Indians, of lands within the jurisdiction of this State, without the sanction of the Legislature.

Mr. John Livingston, of Oak hill, Columbia county, in order to evade this provision in the Constitution, procured from the Six Nations, a "lease" for nine hundred and ninety nine years, and for a consideration of twenty thousand, and an annual payment of two thousand dollars, of all the country, comprizing the Military tract, and extending from the

* I possess several of those documents, viz. Patents of Rensselaer & Montgomery. J. O. C.

Pennsylvania's line to Lakes Ontario and Erie, and including even Presquisle in Ohio. The Legislature having met shortly after the obtaining of this enormous grant, they passed a law, annulling it, declaring it to be an evasion of the Constitution, and that such a lease was in fact, a purchase. As many persons had taken possession of, and settled under Livingston's title, on parts of this land, situated in the present Counties of Cayuga and Onondaga, and had evinced a disposition to hold the same by force, and in defiance of the laws of the State, Governor George Clinton ordered Willm. Colbraith, then Sheriff of the County of Herkimer, in which those lands were situated, to dispossess those intruders, and to burn their dwellings. To enable the Sheriff more effectually to execute these orders, the Governor ordered out a military force; these people were expelled from their possessions, their houses burned, and one of their ringleaders by the name of Seely, was brought to New York in irons, for trial, on a charge of high treason. This object having been effected, the State sometime thereafter, made a purchase from the Indians, of the country called the "Military tract", extending to the borders of the lands that had been ceded to Massachusetts. This is what Gen. Washington alluded to, in his speech in 1790, when he said, that upon inquiry from the Governor of New York, he found that John Livingston had no legal right to treat with the Indians, and that his acts were null and void. I am not certain, but my impression is, that Messrs. Gorham and Phelps, prior to their purchase

from the Indians, either apprehending that Livingston's transactions with them, might increase their difficulties in obtaining the Native title, or otherwise interfere with their purchase, gave to Mr Livingston and his associates, the townships known as the "Lessee townships", and being, I believe, four in number, thereby quieting their claim.

Foiled in their attempt by the energy displayed by the Legislature and the Governor, the next effort of Mr. Livingston and his associates was, to form a new State out of the country west of Seneca lake, and extending from the Pennsylvania line, to lakes Ontario and Erie. Their object in their endeavour to effect this project, was to get rid of that part of the Constitution of New York, which had annulled their lease to the lands west of the Genesee river. Accordingly a meeting had been called by these people, to assemble at the town of Geneva, on the 10th of November, 1793, to take the necessary steps to carry their scheme into effect. To crush in the bud, this disorganizing attempt, the resolutions, a copy of which you will find in a letter of mine to my father, dated 10th of November 1793, were passed. They produced the desired effect, and Livingston's scheme was abandoned.

In 1791, a treaty was held by Col. Pickering, with the Six nations, for the purpose, as the Indians term it, of "brightening the chain of friendship", and prevent their making common cause with the hostile tribes, with whom the United States were then at war. The place fixed on for the holding of this treaty, was, in the first in-

stance, the painted post, but was afterwards changed to Newtown, about 16 miles east of the post. You will perceive from my father's letter to Colonel Gordon, commanding a British regiment, then garrisoning Fort Niagara; and from another letter to Col. Pickering, that a younger brother of mine and myself, left Philadelphia in the month of June 1791, to attend this treaty. Our route was first, to Wilkes-Barre, and from thence, along the west branch of the Susquehanna, by what was then called "Sullivan's path", being that which had been taken by that General and his army, when invading the Indian country, during the Revolutionary war.

The Newtown Treaty, lasted several weeks; I attended it the whole time, and lament that I have not more of the Indian Speeches made on that occasion, particularly those of Red Jacket.

(The principal speakers during that treaty, were Red Jacket and the Farmer's brother. Red Jacket was, I suppose, at that time, about 30 or 35 years of age, of middle height, well formed, with an intelligent countenance and a fine eye, and was a fine looking man. He was the most graceful public speaker I have ever known; his manner was at the same time, both dignified & easy; he was fluent, and at times, witty and sarcastic; he was quick and ready at reply; he pitted himself against Col. Pickering, whom he sometimes foiled in argument. The Colonel would sometimes become irritated, and lose his temper; then Red Jacket would be delighted, and shew his dexterity in taking ad=

vantage of any unguarded assertion of the Colonel's. He felt conscious pride in the conviction, that nature had done more for him than for the Colonel. A year or two after this Treaty, when Col. Pickering, from Post Master General, became Secretary at War, I informed Red Jacket of his promotion, "Ah," said he, "we began our public career about the same time; he knew how to read and write, (meaning he was educated) I did not, and he has got ahead of me; but if I had known how to read and write, I would have been ahead of him."

Whatever influence Red Jacket possessed among the Indians, was derived from his talents; they had no confidence in his integrity, and a greater drunkard than himself was not to be found among the Six Nations. He was also at this time, reputed to be a coward; and it was said of him, that on some occasion, during the Revolutionary war, when he had stimulated his tribe to attack the enemy, and had engaged to co-operate with them, that he contrived not only to keep out of harm's way, but during their absence, was employed in the less dangerous, but more profitable employment, of killing some of their cows, to supply his own family with meat, in consequence of which, he became known by the Knick name of the "Cow-killer". On one occasion, when Brant, Cornplanter, and Red Jacket, had been dining with me at Canandaigua, I observed some time after dinner, when the bottle had circulated pretty freely, much merriment between Brant and Cornplanter, and evident

mortification in the looks of Red Jacket. I did not, at the time, know the cause of this; but Brant subsequently explained to me that he and Cornplanter had been amusing themselves at Red Jacket's expense, by telling a story about some other Indian, to whom they imputed the very same conduct practised by Red Jacket, when he killed his neighbours' cows. I am told, however, that during the last war with Great Britain, he redeemed his reputation for bravery; and that on several occasions, he evinced decided courage.

It may not be amiss to mention here, an anecdote that was told, and which was generally believed to be correct, as to the means resorted to by Red Jacket to become a Sachem. The Sachemship is derived from birth, and the descent is in the female line, because they say the offspring of the mother is always known to be legitimate; the War Chiefs only, are selected for bravery and merit. Red Jacket, though of obscure birth, was determined to become a Sachem. To effect his purpose, he announced to the Indians, that the Great Spirit had made known to him in a dream, that their Nation would never prosper, until they made of him a Sachem. For some time, very little attention was paid to this pretended revelation; but the dreamer artfully availed himself of every calamity that befel the Nation - such as an unusually sickly season, the small pox spreading among them, &c, and attributed all the misfortunes of the Nation to their not comply-

ing with the will of the Great Spirit. He is said to have persevered in this course until he was made a Sachem.

The Farmer's brother was a tall, powerful man, much older than Red Jacket, perfectly honest, and possessing, and deserving to possess, the confidence of the Nation. He was dignified and fluent in his public speaking; and altho' not gifted with the brilliancy of Red Jacket, he possessed good common sense, and was esteemed both by the white people, and the Indians.

It may not be improper here to describe a religious ceremony to which I had been invited, and did join in, during this Treaty. It being full moon, the ceremony was in honour of that Luminary. There were present probably 1500 Indians; we were all seated on the ground, forming a large circle, excepting at that part of it, where a fire was burning, and not far from which, was a pillar or post, representing the stake to which criminals are tied when tortured, after having been taken in battle. A very old Cayuga Chief, much distinguished for his bravery, and called the "Fish Carrier", rose, and addressed the Moon, in a speech of about a half an hour in length, occasionally throwing in the fire a handful of tobacco, as an offering. After this speech, we all stretched ourselves our full length upon the ground, the head of one, touching the feet of another; and at one end of the circle, commenced the utterance of a guttural sound, which was repeated, one

after the other, by every person present. Then followed the War dances, performed by young Warriors, naked to the waistband, with bodies painted with streaks of red, down their backs representing streams of blood. Occasionally one of the Dancers would strike the post, representing the tortured prisoner, and into whose body he was supposed to thrust the end of a burning stick of wood. He would then brag of the number of scalps he had taken from those of his tribe or nation. After the Rum, drank during this ceremony, had begun to produce its effect, an Oneida Warrior struck the post, and imprudently began to boast of the number of Indian scalps he had taken during the War of the Revolution, when the Oneidas alone had sided with the Americans, and the Senecas, Cayugas, Onondagas, and Chippawas with the British. This boast excited the anger of the others; knives were drawn, and there would have been bloody work, had not old Fish Carrier, (who was venerated both on account of his age and his bravery) interposed. He arose, and addressing himself to the young Warrior, told them that when any of them had attained his age, and had taken as many scalps as he had, it would be time for them to boast of what he had done; but until then, it better became them to be silent. He then struck the post and kicked it over, and caused the fire to be put out, and they dispersed peaceably.

It was at this ceremony that I received the Indian name, by which I was thereafter called by them. That name was Otes'siawne, which was translated to be "always ready". Red Jacket told me that it was his name, when he was a young man; but when he became a Sachem, he was called Sá'gi'awá'ta.

At this treaty also, I became intimate with Peter Otsiquette, who when a boy, ~~he~~ was taken to France, by the Marquis de la Fayette. He remained with the Marquis seven years; he received while with him, a very finished education. Having received the early part of my own education in France, and being well acquainted with the French language, I would frequently retire with Peter, into the woods, and hear him recite some of the finest pieces of French poetry from the tragedies of Corneille and Racine. Peter was an Oneida Indian,= he had not been many months restored to his nation, and yet he would drink raw Rum out of a brass kettle, take as much delight in yelling and in whooping as any Indian; and in fact, became as vile a drunkard as the worst of them.

Having left Newtown, at the termination of the Treaty, my brother and myself proceeded to Catherine's town, at the head of the Seneca lake, where there were two or three log cabins. From there, we continued our journey to Geneva, where there was a log tavern, kept by a man of the name of Jennings, and where also resided in log houses, one or two Indian traders, and a few

drunken white loafers. From Geneva we proceeded to Canandaigua, where the settlement, though small, was of a very different character from that of Geneva. There were, at that time in Canandaigua, only a few log houses, but inhabited by persons of worth, of intelligence, and of industrious sober habits. But very few of those persons are now alive, and I believe that they consist only of children of the late Captain Israel Chapin, Judge Atwater, Mr. Sanburn, and Mr. Barlow. Among those now deceased, but then alive, were Genl. Israel Chapin and his wife, his son, Captain Israel Chapin and his wife, Nathaniel Gorham, Col. Othniel Taylor, Mr. Sanburn, John Clarke, Jasper Parrish, Judah Colt, Major Merrist, and there may have been three or four others, whose names I do not remember. Mr. Oliver Phelps, though occasionally there on business, was not a resident of the place, his domicile being at Suffield, in Connecticut. The respectability, sobriety, and industry of the first inhabitants of this place, have had a happy influence on its prosperity ever since. After a considerable halt at Canandaigua, we proceeded on our journey to Niagara, through the town of Bloomfield, where the late General Amos Hall, and a few other settlers had located themselves, and from thence to the borders of the Genesee river, where a man of the name of Berry, kept a tavern. Judge Timothy Hosmer, then first Judge of the county, resides at a short distance, and James and William Wadsworth

lived at Geneseo, then called Big Tree, at a distance of 8 or 9 miles from Berry's. There was at that time, and for several years thereafter, only an Indian path, leading to Niagara, and not a habitation of any kind from the Genesee river, to the fort at that place. We met at Niagara, with a very kind reception, from Colonel Gordon, who sent two of his officers to accompany us to the Falls, and who also gave us a letter to the Commanding Officer at Fort Erie, directing him to cross us and our horses to the opposite shore, in the boats belonging to the Garrison. On our return to Canadaigua, we continued our journey to Whitesborough, through the Military tract, and from thence through Albany, to New York and Philadelphia.

The excursion that has been spoken of was undertaken by me, partly from a desire to witness an Indian treaty, and see the Falls of Niagara; and partly with a desire to see a country in which my father had at that time so extensive an interest; and with a determination to settle in it, in the event of my liking it. I was pleased with it, and made up my mind to establish myself in Canadaigua, as soon as I should have attained the age of 21, and have obtained my admission at the Bar; having studied law in New York. Accordingly, in the early part of March 1792, I left New York, for Canadaigua; I was induced to fix on that, as the place of my residence, from the character and respectability of the families already

established there. In the course of that year, I commenced the building of a frame house, filled in with brick, and which was finished in the early part of the year 1793. That house still subsists, and even in that handsome town, where there are so many beautiful buildings, is not considered as an eyesore. When it was erected, it and one built by Mr. Oliver Phelps about the same time, were the only two frame houses west of Whitesboro'.

Shortly after my reaching Canadaigua, Captain Williamson, who, during the war of the Revolution, commanded a company in the British army, and who was captured on his passage to America, and paroled in Boston, as a prisoner of war, came out as the agent of the late Sir William Pultney and Governor Hornby. In Capt Williamson were combined activity, energy, liberality, and indeed, every quality requisite to advance the prosperous settlement of the wilderness in which his agency was situated. To his energy, and the liberal expenditure of the large funds at his command, that country owed in a great measure, its rapid settlement. He laid out the town of Bath, at the head of the Conhocton river, and took up his residence with his family there.

Unfortunately for Capt. Williamson, Sir Willm. Pultney had contracted in London, with a German by the name of Burtzee, to bring with him from Germany, a number of families, and to settle them on his Genesee lands. It was contem=

plated by Sir William, that the men brought over, would be farmers, instead of which, they were vagabonds of the worst description, collected together out of the streets of Hamburgh and other cities, and totally unused to any rural occupation. Their number might have been 70 or 80; and they not only became a source of great expense, but also of great annoyance to Mr. Williamson.

They arrived, as you will perceive, from two of my letters to my father, in 1793; one of these letters is dated in February, and the other, on the 10th of November, in that year. This last letter encloses the resolutions passed in relation to John Livingston and his associates; and it is only in the postscript to it that you will find any allusion to these Germans. Mr. Williamson had caused a road to be laid out from the west branch of the Susquehanna to Bath; and on the arrival of these Germans, he thought that they might profitably be employed on their way to the Genesee in cutting out this road. They were totally unused to the chopping with axes, and insisted on cutting down trees with cross-cut saws, two of them sawing at the same time on the same tree. While thus employed, several accidents happened by trees (sawed through) falling, and badly wounding, and in some instances, killing the men thus employed. They were so awkward, and made such slow progress with the road, that Capt. Williamson soon found it necessary to detach them from it; he accordingly sent them to Williamsburg, near the Genesee river, and having previously purchased for the use of

these men, a large field of wheat, on the Flatts, adjoining that river, they were directed to harvest it; but this, and all other labour, they refused to perform, insisted on being fed and maintained in idleness. They became so troublesome and unmanageable, that Mr. Johnson, Capt Williamson's agent at Williamsburg, who had them in charge, sent to Canandaigua, to beg me to come to his assistance. As I then spoke a little German, and was supposed to have some influence in the country, I went out, and expostulated with Bertzy - but to no effect. The day after my arrival, they expected Capt Williamson, and had determined to hang him on a tree they had selected for that purpose. Mr. Williamson did not arrive, as they expected; and, disappointed at his non-appearance, they assembled round Mr. Johnson's house, and threatened violence; I appeared among them to dissuade them from this course of proceeding; they rushed upon me, but I soon escaped from them, without injury. In the mean time Bertzy became alarmed, and explained to them the impropriety of their attack on me; as, however, they had committed an assault, it was thought best, that these lawless men should be taught that they were amenable to the laws. Accordingly they, or many of their number, were apprehended and brought to Canandaigua, where not being able to give security, they were confined in gaol; they were tried, convicted, and small fines were imposed on them. To enable them to pay these fines, they were obliged to consent to their being seperated, and hired out to farmers, in different parts of the

country; and finally, with their leader Bertzy, they removed to Upper Canada, where, I believe, he made some contract with the Government for them.

Prior to my having settled at Canandaigua, Jemima Wilkinson and her followers, had established themselves on a tract of land, purchased by them, and called the Friends' settlement. Her disciples were a very orderly, sober, industrious, and some of them, a well-educated and intelligent set of people; and many of them possessed of handsome properties. She called herself the Universal Friend, and would not permit herself to be designated by any other appellation. She pretended to have had revelations from heaven, in which she had been directed to devote her labours to the conversion of sinners. Her disciples placed the most unbounded confidence in her, and yielded, in all things, the most implicit obedience to her mandates. She would punish those among them, who were guilty of the slightest deviation from her orders; in some instances, she would order the offending culprit to wear a Cow-bell round his neck, for weeks, or months, according to the nature of the offence; and in no instance was she known to have been disobeyed. For some offence, committed by one of her people, she banished him to Nova Scotia for three years, where he went, and from whence he returned only after the expiration of his sentence. When any of her people killed a calf or a sheep, or purchased an article of dress, the "friend" was asked what

portion of it she would have, and the answer would sometimes be, that the Lord hath need of the one half, and sometimes that the Lord hath need of the whole. Her house, her grounds, and her farms, were kept in the neatest order by her followers, who, of course, laboured for her without compensation. She was attended by two young women, always neatly dressed. Those who acted in that capacity, and enjoyed the most of her favoured confidence, at the time I was there, were named Sarah Richards and Rachel Milnin. Jemima prohibited her followers from marrying; and even those who had joined her after having been united in wedlock, they were made to seperate, and live apart from each other. This was attributed to her desire to inherit the property of those who died.

Having discovered that bequests to the Universal friend would be invalid, and not recognizing the name of Jemima Wilkinson, she caused devises to be made by the dying, to Sarah Richards, in the first instance. Sarah Richards however died, and her heirs at law claimed the property thus bequeathed; litigation ensued, and after the controversy had gone from court to court, it was finally decided in Jemima's favour, it appearing that Sarah Richards had held the property in trust for her. After the death of Sarah Richards, devises were made in favour of Rachel Milnin; but Rachel took it into her head to marry, and her husband claimed in behalf of his wife, the property thus devised to her,

Among Jemima's followers, was an artful, cunning, and intelligent man by the name of Elijah Parker; she dubbed him a prophet, and called him the Prophet Elijah. He would, before prophesying, wear around the lower part of his waist, a bandage or girdle, tied very tight, and when it had caused the upper part of his stomack to swell, he would pretend to be filled with prophetic visions, which he would impart to the community. But after some time, Jemima and her Prophet quarrelled, and he then denounced her as an impostor, declared that she had imposed on his credulity, and that he had never been a prophet. After having divested himself of his prophetic character, he became a justice of the peace, and in that capacity issued a warrant against Jemima, charging her with blasphemy. She was accordingly brought to Canandaigua, by virtue of this warrant, and at a circuit court held there in 1796, by the late Governor Lewis, then a judge of the Supreme Court of the State, a bill of indictment prepared by Judge Howell of Canandaigua, then District Attorney, was laid before the Grand Jury. Judge Lewis having told the Grand Jury that by the laws and Constitution of this State, blasphemy was not an indictable offence, no bill was found. Judge Howell had informed me that a similar question having been brought before a full bench of the Supreme Court, that Judge Lewis's opinion was overruled by all the other judges, and that blasphemy was decided to be an indictable offence. These litigations, however, had con-

siderably lessened the number of her followers; but she, as I am informed, retained until her death, her influence over a considerable portion of them.

Prior to these occurrences, Jemima had been attacked with a violent disease, and she expected to die. Under this conviction, she caused her disciples to be assembled in her sick chamber, when she told them that her heavenly Father, finding that the wickedness of the world was so great, that there was no prospect in her succeeding in reclaiming it, had determined that she should soon quit it, and rejoin him in heaven. Having unexpectedly recovered, she again assembled them, when she announced to them that her heavenly father had again commanded her to remain on earth, and make one more trial.

When I first saw Jemima, she was a fine looking woman, of a good height; and though not corpulent, inclined to en-bon-point. Her hair was jet black, short, and curled on her shoulders; she had fine eyes, and good teeth, and complexion. Her dress consisted of a silk purple robe, open in front; her under dress was of the finest white Cambric or muslin. Round her throat, she wore a large cravat, bordered with fine lace. She was very ignorant, but possessed an uncommon memory; though she could neither read nor write, it was said that she knew the Bible by heart, from its having been read to her. The sermon I heard her preach, was bad in point of language, and almost unintelligible, aware of her deficiencies in this respect, she caused one of her followers to tell me, that in her discourses, she did not aim at

expressing herself in fine language, preferring to adopt her style to the capacity of the most illiterate of her hearers.

Governor Simcoe had, from his first assuming the government of Upper Canada, evinced the greatest jealousy of the progress of the settlement of our western country; he was even said to have threatened to sent Captain Williamson to England in irons, if he ever ventured to come into Canada. In 1794, Capt. Williamson had commenced a settlement at Sodus Bay.

In the month of August of that year, Lieut. Sheaffe of the British army, (now Major General Sir Roger Hale Sheaffe; who, during the last war, commanded at the battle of Queenstown, after the death of Gen. Brock) was sent by Governor Simcoe, with a protest to be delivered to Captain Williamson, protesting against the prosecution of the settlement of Sodus, and all other American settlements beyond the old French line, during the indexecution of the treaty that terminated the Revolutionary War. Finding there only an agent of Mr. Williamson's, (a Mr. Moffit, who is yet living) Lieut. Sheaffe informed him of the nature of his mission, and requested him to make it known to Capt. Williamson, and to inform him that he would return in ten days, when he hoped to meet Capt. Williamson there. Mr. Moffat came to me at Canandaigua, to acquaint me with what had taken place, and induce me to accompany him to Bath, to confer with Captain Williamson in relation to this very extraordinary

protest. I accordingly went to Bath, and it was agreed between Capt. Williamson and myself, that we would both meet Lieut. Sheaffe at Sodus, at the time he had appointed to be there. Accordingly, on the day named by Lieut. Sheaffe, we were at Sodus; and shortly after our arrival there, we perceived on the lake, a boat rowed by about a dozen British Soldiers, who, after ~~their~~ landing their officer, were directed by him to pull off some distance in the bay, and remain there until he made a signal to return for him. Capt Williamson, in consequence of the threats imputed to Gov. Simcoe, in relation to himself, did not think proper to expose himself unnecessarily, to any act of violence, if any such should have been meditated against him. He therefore requested me to receive Lieut. Sheaffe on the beach, and to accompany him to the log cabin where Capt Williamson was with a brace of loaded pistols on his table. The ordering his men to remain at a distance from the shore, shews, that the precaution that had been taken, though proper at the time, was unnecessary, and that no resort to force was intended. The meeting between the Lieutenant and Mr. Williamson was friendly; they had known each other before, and while in the same service, had marched thro' some part of England together. The Lieutenant had indeed to Capt Williamson, the protest, & was desired by the Captain to inform Gov. Simcoe that he would pay no attention it, but prosecute his settlement, the same as if no such paper had been delivered to him; that if any attempt should

be made forcibly to prevent him from doing so, that attempt would be repelled by force. Lieut Sheffe having during the interview between them, made some allusion to Capt Williamson having once held a Commission in the British army, he replied, that while in the service of the Crown, he had faithfully performed his duty; that having since renounced his allegience to that Crown, and become a citizen of the United States, his adopted country, (having both the ability and the inclination,) would protect him in his rights, and the possession of his property. I asked Lieut. Sheffe, if he would be so good as to explain what was meant by the "old French line," where it ran, and what portion of our country we were forbidden in Governor Simcoe's protect, to occupy. He replied, that he was merely the bearer of the paper; that by the orders of his superior Officer, he had handed it to Capt Williamson; that no explanation had been given to him, of its purport, nor was he authorized to give any. After about half an hour, I accompanied him to the beach, where he had landed; and on a signal having been made by him, his boat returned for him, and he departed. This is what my father, in his letter of the 10th September 1796, alludes to, and terms a Treaty, and for which he hopes that Simcoe will get a rap over the knuckles from his master. So many years have elapsed, since the complaints made both by the British and our own Government, were adjusted by negociation, that you may be at a loss to know what Governor Simcoe meant

when he spoke of the inexecution of the treaty that terminated our Revolutionary struggle; The complaint on the part of Great Britain, was, that those parts of the Treaty which required, that in those States in which British subjects were prevented by law, from recovering debts due to them prior to the Revolution, had been repealed, as by the Treaty they ought to haven been; and also, that British property had been confiscated, since the period limited in the Treaty for such confiscations, and no compensation had been made to the injured parties. On our part, the complaint was, that after the cessation of hostilities, negroes and other property, were carried away by the British army, contrary to stipulations entered into by the preliminary treaty of peace. The British retained possession of the posts on our borders, and within our bounds, until an amicable settlement of these difficulties, and which settlement I think took place in 1796.

In September 1794, another Treaty was held by Col. Pickering, with the Six Nations, at Canandaigua. The object of this treaty, like the former ones, was to preserve their friendship, and prevent their joining the hostile Indians; or in the Indian language, to bighten the chain of friendship". I have none of the speeches made at that Treaty; but as Mr. Greig informs me that you have had in your possession, all the papers of the late Capt. Chapin, you have probably received from them, all the

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information that you desire, relative to what was done at that Treaty. One circumstance I do recollect, in relation to it: The Treaty was holding, when news ~~was~~ were brought by runners sent by the hostile Indians, to the Six Nations, giving an account of their defeat by Genl Wayne, at the battle at the Miami.— This account was closed with these words;— "and our brethren, the British, looked on, and gave us not the least assistance". The belief at the time was, and the words I have quoted, confirm it, that when the Indians agreed to give battle to Wayne, they were encouraged to to do, by the British; & were promised shelter in the British fort, commanded by Major Campbell, in the event of a defeat. Certain it is, that when routed, they rushed towards the British fort, the gates of which were shut against them, as our men would have pursued them into it. Major Campbell appeared on the ramparts, the matches of his Artilleristts were lit, and he hailed our troops, and warned them not to approach his fort, or he would fire on them. Unmindful of his threats, the Indians were mowed down, under his very guns, by Wayne's cavalry; he did not fire, for had he discharged a single gun, "Mad Anthony", as Wayne was called, would have taken his fort. I have been thus particular, in dwelling on this subject, in consequence of the influence it had on our settlements. For some months prior to

the treaty of Canandaigua, the Indians would come among us, painted for war; their deportment was fierce and arrogant, and their behavior was such as to create a belief, that they would not be unwilling to take up the hatchet against us. From certain expressions attributed to Gov. Simcoe, and in connection with his conduct at Sodus bay, it was believed that the British had taught the Indians to expect that Gen. Wayne would be defeated, in which event, they might easily have persuaded the Six Nations, to make common cause with the hostile Indians, and our settlements would have been depopulated. Such were the apprehensions entertained, at the time of an Indian war on our borders, that, in several instances, farmers were panic struck, and with the dread of the scalping knife before them, had "pulled up stakes", and with their families, were on their way to the East. Arrived at Canandaigua, they found that I was painting my house, and making improvements about it; believing that I possessed better information on the subject than they did, their fears became quieted, and they retraced their steps back to their habitations. After the defeat of the hostile Indians, those of the Six Nations became completely cowed; and, from that time, all apprehensions of a war with them, vanished.

You will perceive by the conveyances and agreements accompanying this statement, that in the years 1792 and 1793, my father had made sales in Holland, to the gentlemen composing the Holland Land Company, of the greater part of his interest in the "Genesee country", or rather that part of it, lying ~~east~~ west of the Genesee river. You will observe that these conveyances and agreements are in the names of Herman Le Roy, Willm. Bayard, Mathw. Clarkson, Garret Boon, and John Linklaen. These gentlemen held the lands in trust for the Hollanders, as they being aliens, were not at that time, by the laws of this State, permitted to hold landed property in it; a subsequent law has removed that disability, as far as it relates to the parties concerned in the Holland purchase. By the terms of these agreements, my father was obliged to extinguish the Native title at his own expense; and that thirty five thousand pounds sterling, of the purchase money was retained by the purchasers, until that extinguishment was obtained. My father's reasons for not attempting to make a purchase of the Indian title at an earlier period, appear in two of his letters, dated in 1796, and to which I refer you. One of these letters was suppressed, because after having been written, it was discovered, that after the Fort at Niagara had been surrendered by the British, to our troops, in 1796, the Officer then in command of that fort, Capt. Doughty, had sent to the War Department, an Indian Speech,* by which it was made to appear that the Indians,

* See numbered document

were reluctant to treat with him; the other letter, which was sent to the President, was dated on the 25th August. You will observe, from these letters, and those written by him the following year, my father's extreme solicitude to make a purchase of the Native title; this solicitude was more from a desire to comply with his engagements with the Hollanders, than from any private advantage that would accrue to him, having, at that time, parted with his interest in the lands.

Massachusetts, when she sold her preemptive title to these lands, reserved to herself the right to appoint a Commissioner, to be present at any treaty, that might be held with the Indians, for the extinguishment of the Native title; and she accordingly did appoint, at an early period, Genl. Sheppard, to attend the same. By the laws of the United States, no treaty could be held with Indians, without being superintended with a Commissioner, appointed by the President, and confirmed by the Senate of the United States; and to procure that appointment, a difficulty arose, that had not been anticipated. This difficulty arose from the Indian speech sent by Capt. Bruff, (the Officer whom I have before alluded to, as having assumed the command of Fort Niagara) to the War Department. It appears that this Capt. Bruff had held a conference with the Senecas, and had presented them with a flag. In their answer to Capt. Bruff's speech

which you will find in the paper, marked "Indian", they call my father, as you will perceive, the "big eater, with the big belly", and beg that he may not be permitted to come and devour their lands.

When, then, my father made his application in 1797, to Genl. Washington, to nominate a Commissioner, the General at once consented to do so; but said that his duty would require, that Capt. Bruff's letter, and the accompanying Indian Speeches, should be sent with the nomination to the Senate; and that such was the desire, at that time, to conciliate the Six Nations, that he did not believe that the Senate would confirm any nomination contrary to their wishes. A Commissioner was, however, appointed, but with an understanding that he was not to act in this business, until the Indians themselves requested a Treaty. The task of procuring from them, this request, devolved on me, & it was not an easy one to accomplish. The Indians were apprehensive, that their asking for a Treaty, would be considered as a commitment, and be claimed as a pledge that they were desirous to part with their lands. To persuade them to make this request, I went to Buffaloe, having performed the journey on foot. For an account of that journey, and its results, I refer you to a letter written by me to my father, dated 27th May, 1797, which I have found among my father's papers; and also to the speeches of the Farmer's brother and Red Jacket, of the 23rd September, 1796; (these are the speeches my

father alluded to in 1796, and which prevented his making in that year, an application for the appointment of a Commissioner, as by his suppressed letter, in that year, it appears that he had contemplated doing.

The Commissioner who, in the first instance, was appointed to superintend this Treaty, was a Member of Congress, from New Jersey, named Isaac Smith. Having been subsequently appointed a judge of the Supreme Court of New Jersey, and finding that his attendance at a Treaty would interfere with his Judicial duties, he resigned his situation as a Commissioner, and Col. Jeremiah Wadsworth, who had been a distinguished Member of Congress from Connecticut, was appointed in his place. Those who attended the Treaty, besides the two Commissioners, were, Capt. Chapin, then Superintendent of Indian affairs; the Interpreters, and occasionally Capt. Williamson; and Mr James Rees of Geneva, who acted as Secretary; Mr. Willm. Bayard of New York, as agent of the Holland Land Company; and two young gentlemen from Holland, by the name of Van Staphorst, who were nearly related to the gentlemen of the same name, who were the principal members of that Company. I had hired, for the accommodation of these Gentlemen, the house of Mr Willm. Wadsworth, his brother James being at that time in Europe. I had caused a large Council house to be prepared, covered by the boughs and branches of trees, to shelter us from

the rays of the sun; with a more elevated bench for the Commissioners, and other benches for the spectators. Here the business of the Treaty was conducted between the Indians and myself; and here also the Indians held their private Councils. It is their custom to agree among themselves, in private Council, on the measures to be adopted, the arguments to be used in support of them, and also to fix on the speakers to discuss them, before they met the White people in a more public Council. You will observe, from my father's speech, "No 3." that, as he could not personally attend the Treaty, he had authorized Capt Williamson and myself to act in his behalf. Capt Williamson's business requiring that he should be the greatest part of his time at Bath, and that he could only occasionally be at Genesee, where the treaty was held, declined acting, and consequently the management of the whole concern devolved on me. By the rough memorandums of the doings at of this Treaty, which you will find rolled up together, you will perceive that we reached Genesee, on the 26th Augt 1797. I will refer you to the same paper for a knowledge of what had taken place between that day, and the 30th of the same month; when you will find, from the same document that I addressed to them the speech "No 4". You will discover from the same memorandum, and for the cause there stated, that nothing more was done, until the 2nd of September; on that day, I again addressed them as you will find by the paper marked "No. 5." You will observe, that in answer to

Red Jacket's speech, wherein he has magnified the consequence and importance which their lands gave to the Senecas, among the other Nations of Indians, that I endeavoured to convince him that he was mistaken, and as a proof that he was so, I mentioned the treatment that some of their Chiefs (Red Jacket having been one of them) had received, when on a mission of peace, to the hostile Indians. My allusion was to the following circumstance; In 1793, Col. Pickering and Col. Beverly Randolph, were sent by the President of the United States, to the country of the hostile Indians, to endeavour to open a negociation with them for a peace. They came to Canandaigua, and from that place, proceeded to Buffaloe. There they prevailed upon some of the Seneca Chiefs to accompany them, supposing that their mediation might promote the object of their mission. On their arrival among the hostile Indians, the latter expressed the greatest contempt for the Senecas, and refused to hold any communication with them. Although the mission was unsuccessful, our Commissioners were treated with courtesy. In Red Jacket's reply to this part of my speech, he admitted the fact of the disrespectful reception they had met with, but imputed it to their going in bad company; but that when they interfered in the disputes of the United States, and accompanied their Commissioners, they forfeited all claim to such a

reception; that the event to which I had alluded, would warn them hereafter, to confine themselves to their own affairs; and that if they went among other Indian Nations, not to go in bad company. I regret that among my papers, there are no copies of this, and several other Indian speeches. After ten or twelve days had elapsed, Col. Wadsworth became unwell, and very impatient of further delay, and insisted on the business being brought to a close. At this time I became informed that some white men, who spoke a little Indian, and whose offers to be employed by me, I had rejected, had persuaded the Indians, that by rejecting my offers, I could be brought to any terms which they might propose, and that they intended on the next day to offer me one Township on the Pennsylvanian line, at one dollar per acre. I endeavoured to convince Col. Wadsworth that further delay would be indispensible, to counteract the impressions that had been made on the Indians; he contended that a prompt and indignant refusal of their offer, would bring them to my terms; Mr. Bayard had received the same impressions from Col. Wadsworth; and the latter having declared that he would go home, unless I made the experiment, and Mr. Bayard having agreed to assume towards his principals, (who alone were interested in the result) the responsibility in the event of its failure, I most reluctantly consented to make it

Accordingly, at the next meeting, Red Jacket rose, and informed me, that the Senecas had come to the determination, to sell only one Township, or six square miles, to be located on the Pennsylvania line, and that for this tract, they would require the payment of one dollar per acre; that after purchasing it, I would make a town of it, and sell it for six dollars per acre, and that the difference between the purchase money, and that received from sales, would more than repay all the expenses of the Treaty. I immediately rose, and told them that their proposal did not deserve a moment's consideration; that it was inadmissible, and that if they had no more reasonable offer to make, the sooner our conferences terminated, the better, so that we might all go home.

Red Jacket immediately sprung up, and said, "We have now reached the point, "to which I wanted to bring you. You told us, "when we first met, that we were free, either "to sell or retain our lands; and that our refu= "sal to sell, would not disturb the friendship "that has existed between us. I now tell you "that we will not part with them; here is my "hand", (stretching it out to me); and, after I had taken it, he said, "I now cover up this Council fire." After this, the whooping and yelling of the Indians was such, that a person less accustomed to them, would have imagined that they intended to tomahawk us all. One of their

drunken warriors, in a most violent and abusive speech, asked me how I dared to come among them, to cheat them out of their lands. This result was galling beyond measure, to Mr. Bayard, on account of the disappointment it would occasion to his principals; in Hoffman he bitterly lamented that he had urged me to take this step. I then told him that I thought it possible, to bring on the business anew; that I would make the attempt, provided both he and Col. Wadsworth would engage not to interfere with me, by advice or otherwise. This, he readily promised, both on his own, and on the Colonel's behalf; he begged me to make the effort, although he said he could not anticipate a favourable result from it. The following day, the Farmer's brother called on me, and expressed a hope, that the failure of the Treaty would not diminish the friendship that had so long subsisted between his Nation and myself. I told him that I had no right to complain of their not selling their lands; but that I had a right to complain of their behaviour towards me, at our last meeting; that they had permitted one of their drunken Warriors to insult me; and that the rest of them joined in the yelling and whooping in such a manner, as to shew their approbation of this insult; that I had not deserved this treatment from them; that for several years, I had not refused them either food, or as much liquor as was good for them, when they came to Canandigua; that my father, when any of their

Chiefs were in Philadelphia, had been kind to them; and during this Treaty they had all been well fed, and supplied with liquor. He replied, that all this was true; that he was sorry, that we should part with any cause for dissatisfaction on my mind; he also regretted that "the Council fire had been covered up", as there would be no opportunity for us to meet again, and smooth over, and heal these difficulties. I told him that he was mistaken; that the Council fire was not extinguished; and I complained of it, as another grievance, that Red Jacket had declared "the Council fire to be covered up", when, according to their own usages, he who lit the Council fire, had alone the right to cover it up, it was still burning. After a few moments reflection, he said, that was true; that it had not occurred to him before, and that he was glad it was so, and we might now meet again, and smooth over our difficulties and causes for discontent. It was accordingly agreed upon between us that we should again meet in Council; but I told him that it must be postponed for a few days; during which, I should be occupied in examining the accounts, and paying for the provisions which had been consumed by them; in collecting the cattle, not slaughtered &c &c.

The Indians are very tenacious of a strict adherence to their usages and customs. According to those usages, their Sachems have a right to transact all the business of the Nation,

whether it relates to their lands, or any other of their concerns. But when it relates to their lands, and they are dissatisfied with the management of the Sachems, the women and Warriors have a right to divest them of this power, and take it into their own hands — the maxim among them being, that the lands belong to the Warriors, because they form the strength of the Nation; and to the women, as the mothers of the Warriors. There are, therefore, in every town, Head, or Chief women, who, when in Council, select some Warrior to speak for them.

Apprehensive that it would be difficult to induce the Sachems to retrace their steps, and accede to any arrangement widely different from the proposal they had made, I determined to try whether a negociation with the women and Warriors, would not be attended with a better result, I therefore called all the Chief women, with some of the Warriors, to meet me; I then addressed them, and informed them of the offers that had been made to their Sachems; I told them that they, money that would proceed from the sale of their lands, would relieve the women from all the hardships that they then endured; that, now they had to till the earth, and provide, by their labour, food for themselves and their children; that, when those children were without clothing, and shivering with cold, they alone, were witness to their sufferings; that their Sachems would

always supply their own wants; that they fed on the game they killed, and provided clothing for themselves, by exchanging the skins of the animals they had killed, for such clothing; that therefore, the Sachems were indifferent about exchanging for their lands money enough, every year, to lessen the labour of the women, and enable them to procure for themselves and their children, the food and clothing so necessary for their comfort. I finished by telling them, that I had brought a number of presents from Philadelphia, which I intended to have given to them, only in the event of a sale of their lands; but as I had no cause of complaint against the women, I would cause their portion of those presents to be distributed among them. For some days, the Chief women and Warriors might be seen scattered about in little knots; after which, I received a message, informing me that the women and Warriors would meet me in Council, and negociate with me.

You will find, among the speeches, in the memorandum before alluded to, one, made by a War chief, called "Little Beard." This was the Chief, who, ~~afterwards~~ made a prisoner of Lieut. Boyd, an officer in General Sullivan's army, at the time of the invasion of the Genesee Country by that General. When Boyd was captured, he was carried across the Genesee river, to Beardstown, of which

"Little Beard" was chief, and was there tortured by him. I must refer you to the Speeches of "Little Billy" a War chief; to that of a Cayuga chief; to Col. Wadsworth's explanation; and finally, to Cornplanter's speech, for the discussions while treating with the women and Warriors, from whom the purchase was eventually made.

Here, it may be proper to notice a difficulty which occurred during the negociations that have been described;

The Instructions of the President of the United States, were, that the purchase money, to be paid to the Indians, should be invested in the Stock of the Bank of the United States, in the name of the President, and his successors in office, as their Trustee. As no Indian can count even one hundred, the first difficulty was to make them understand how much one hundred thousand dollars was - The second, was to account to them for the irregularity of their annual payments. To obviate the first, it became necessary to compute the number of kegs of a given size that $100.000 would fill, and the number of horses it would take to draw that sum in specie. As to a Bank, and the uncertainty of the dividends of its Stock, they could not be made to comprehend any thing about it. Their only conjecture, in relation to it, was, that the Bank was a large place in Philadelphia, where a large sum of money

was planted. - That some years it would procure a more abundant crop, than in others; and long after the sale of their lands, on my return to Canandaigua, from New York or Philadelphia, they would enquire of me, what kind of crop they might expect in that year.

After the terms of the Treaty had been agreed upon; the next difficulty, and it was not a small one, was to restrict them as to the extent of their reservation. I had agreed to give them $100.000 for the whole of their lands, and to make no deduction from that sum, if they would content themselves with moderate reservations, but insisting upon a proportionate reduction from that sum, if their "reservations" were large. The first discussions were, as to the mode of fixing these reservations; the Indians wanted them to be by natural boundaries, such as the course of streams, &c. To this I objected, knowing their perfect acquintance, and our ignorance, of the quantity of land that such courses would embrace. For the sake of certainty, I insisted, and with great difficulty, got them to consent to square miles. These being marked out on a Map of their country, they could form an opinion of the quantity of land left to them. When we first met to allot to each of their villages, its proportionate portion of the two hundred thousand acres retained by them, the utmost jealousy appeared to exist among the different Chiefs, as to the portion that should be annexed to the place of his residence.

The importance of a Chief, and his influence with his Nation, is, in a great measure, proportionate to the number of his followers; and that number is either increased or diminished, by the extent of land annexed to the Chief's residence. Hence the struggle on the part of every Sachem and Chief Warrior, both to increase his own bounds, and to lessen those of a rival Chief. This contest was more violent between Red Jacket and Cornplanter, than any of the others; the first wanting the principal reservation at Buffaloe Creek, and the second, at his residence at the Alleghany. I found it impossible to come to any arrangement on this subject, when more than a couple of the same tribe were together; and I therefore required, that each of them should alternately send to me, one or two Chiefs, with whom the arrangements were finally made. You will perceive among the memorandums that were kept during the Treaty, the very large deductions they were desirous of making from the country, which they had agreed to sell — Red Jacket claiming for Buffaloe alone, near one fourth of it. In this they would have persisted, had it not been for the apprehension, of a proportionate reduction of the money to be paid to them.

After all these matters had been adjusted to the satisfaction of all parties, a young Indian, about twenty four years of age, called "Young King," who before had not attended the Treaty, made his appearance. He was, by the Female line, a lineal descendant of "Old Smoke," whose memory is revered as the greatest man that ever had ruled over the Six Nations. During his life, his power was unbounded. Young King was a heavy, dull, unambitious, but honest man; he seldom meddled with the business of the Nation, but when he did so, the influence which he derived from his birth, was great. On the arrival of Young King, all business was suspended, until that which had been done, was explained to him. After this explanation had been made, he expressed his disapprobation of the course that had been pursued. Farmer's brother and other Chiefs, then informed me, that the Treaty could not be completed contrary to the wishes of Young King; that, however, unreasonable it might appear to be that one man should defeat the will of a whole Nation, that it was a power which he had derived from his birth, and which he could not be deprived of. Young King, at last, though not reconciled with the parting with their lands, acquiesced, saying that he would no longer oppose the will of the Nation.

The night previous to the signing of the Treaty, Red Jacket came to me privately, and told me, that he would not sign the Treaty in the Council house, when the other Chiefs did so, because he had pretended to them that he was opposed to it; but that after its execution by the others, he would come to me privately, and have his name affixed to it. He added, that it would not do for the Treaty to go to Philadelphia without his name, as Genl. Washington, when he examined it, and found his signature wanting, might imagine that he had been degraded, and had lost his rank and influence among the Senecas. He desired, therefore, that a vacant place might be left on the parchment, near the top of the Instrument, which he would privately come and have filled up with his name, and which he accordingly did.

In 1791, the county of Ontario, altho' not entitled to it from its population, became by a law of the State, authorized to elect a Member of Assembly. It was not known in Canandaigua, Geneva, nor any of the settlements in the County, excepting a small one in the southern part of it, that such a law had passed. Colonel Eleazar Lindley, who, with some of his relatives, had established themselves near the Tioga river, had accidentally heard of its existence; and on the day of the Election, he assembled them together, and got them to vote for him. These votes were never canvassed, but were carried to New York, by Lindley himself, when the Legislature met. Notwithstanding this irregularity, he was admitted to his seat in the Assembly, on the principle that every county entitled to a Representative, ought to be represented. The following year, Genl. Israel Chapin, became its representative. In 1796, Ontario, for the first time, became divided, a portion of the southern part of it having been detached from it, and erected into a seperate county by the name of Steuben.

I had not been in the western part of our State, for thirty two years, until last August (1843,) when I paid a visit to my friend Mr. Greig, at Canandaigua. I am at a loss to say whether my surprize, or my delight, was the greater, at the improvements that I found in every part of it, since I had seen it. I was particularly struck with the City of Rochester. In June 1797,

Louis Philip, the present king of the French, and his two brothers, the Duke de Montpensier, and Count Beaujolais, were my guests at Canandaigua. Being desirous of shewing them the falls of the Genesee river, we rode together to where Rochester now is. There had not, at that time, a tree been cut down, nor was there, there, a hut of any kind. The nearest habitation was that of a farmer named Perrin; where, after having viewed the Falls, we dined on our return to Canandaigua. Notwithstanding all that I had heard of the progress of Rochester, it was difficult for me to realize, that a place that I had last seen, even at that distance of time, an uninhabited wilderness, should now be a busy, active city, containing elegant and costly buildings, and with a population, as I was informed there, of between twenty five, and thirty thousand inhabitants.—

(1844.)

(For a few words, in conclusion, concerning the fate of "Robert Morris", see next page.)

The papers accompanying are valuable. A. O. P.

(See "Documents" &c.)

1844.

The fate of Robert Morris.

The foregoing memorandum concerning settlement in Western New York namely the means whereby Robert Morris completed the denationalization of the Iroquois Tribes or "Six Nations", by purchasing the balance (except a few reserves) of their lands, beyond those previously bought by the State of New-York, out of which the military tract was carved, and by Phelps & Gorham, the first grantees of the Massachusetts Pre-emption Right.

The reverses of Morris - sudden & weighty reverses - were not less remarkable than those which overshadowed the Red men.

When negotiating for the purchase of this last tract, about four millions of acres lying between the Genesee & Niagara - a purchase completed by the Treaty of Geneseo in 1797 - Robert Morris, "the Financier of the American Revolution", was probably the wealthiest man in America. - A merchant of the highest character, enjoying wealth & honors nobly won - wealth acquired chiefly in commercial pursuits, & honors

x

flowing from his services in asserting the independence & sustaining the credit of the United States during the most trying ordeals of our Revolutionary history; his suits were wide-spread upon the ocean — his paper formed a currency — his drafts were honored in the principal commercial cities of Europe, and everywhere among his countrymen in America.

But he became involved in the mania for land speculation which followed the establishment of our National Independence. Although temporarily realizing vast profits in this way, he suffered immensely from the re-action — was overwhelmed in the vortex — and was incarcerated for a while in a debtor's prison!

Within three years from the date when he completed the denationalization of the Six Nations, by purchasing their Territory between the Genesee & the Niagara, he was actually

so impoverished. That he concluded a reply to some inquiries by requesting his correspondent to "be good enough to pay postage on future letters" for he, Robert Morris, "had not a cent to spare from the means of subsistence."

I may add, on the authority of his son Thomas, that, contrary to the general supposition, the pecuniary resources of Robert Morris were not occasioned by his public engagements during the Revolutionary War. Onerous as those obligations were — "to last two years of the war having been supported almost entirely by his advances & credit — he was eventually reimbursed by the public," says Thomas Morris — so far as a return of money borrowed could be considered a reimbursement of his great financial services in the Salvation of his country.

The original papers in the handwri=

ting of Robert Morris, & also those written by his son Thomas, which form a large portion of the documents herein annexed in illustration of the leading topics of the foregoing Memoir, are alike valuable & interesting - furnishing the "secret history" of some of the most interesting events in the annals of New York & of the Union.

Henry O'Reilly

Rochester.
June 27. 1860.

(Vide remarks on autograph letter of Washington to Morris, dated 1795, in this volume.)

Articles of Agreement and Convention made this second day of September Eighteen hundred and sixty three at the Sac and Fox Agency in the County of Osage and State of Kansas, between William P. Dole Commissioner of Indian Affairs in behalf of the United States, and the undersigned persons duly authorized thereto by members of the bands of New York Indians parties to the treaty concluded at Buffalo Creek in the State of New York on the fifteenth day of January Eighteen hundred and thirty eight as proclaimed by the President of the United States on the fourth day of April Eighteen Hundred and forty. Whereas a certain treaty was heretofore made between the Six Nations of New York Indians, and the United States on the fifteenth day of January Eighteen hundred and thirty eight by which said Indians surrendered and relinquished to the United States, five hundred thousand acres of land in the then Territory of Wisconsin, and Whereas the United States in and by said treaty agreed to set apart for said Indians certain lands in the Indian Territory immediately west of Missouri, and to grant the same to them in fee simple, the quantity of said lands being computed to afford three hundred and twenty acres to each soul of said Indians, and did agree that individual, or any number of said Indians, might remove to said Territory, and thereupon be entitled to hold and enjoy said lands, and all the benefits of said treaty according to numbers, respectively, and Whereas the United States did further agree to pay the sum of four hundred thousand dollars, for the removal of the Indians of New York to the said Territory, and for their support and assistance during the first year of their residence in said territory; and, Whereas many members of the bands aforesaid, at their own expense, emigrated from the State

of New York and the Territory of Wisconsin with a view of availing themselves of the of the provisions made to them by the United States which have not been complied with, and whereas many of them who had removed and settled upon the lands set apart for them, having made for themselves good farms and comfortable homes, were compelled by the lawless violence of citizens of the United States to flee, to save their lives, others having been murdered upon their premises, and for the reasons above set forth these articles are entered into,

Article 1 The said persons, authorized in the caption hereof stated hereby surrender and relinquish to the United States all claims of themselves and of those for whom they act, severally and in common, to the lands west of the State of Missouri, and all right and claim to be removed thither, and of those who have removed at their own expense all claims of remuneration therefor, and for support and assistance after such removal, and all other claims against the United States, under the aforesaid treaty of eighteen hundred and thirty eight.

Article 2 - In consideration of the aforesaid surrender and relinquishment, the Secretary of the Interior shall cause a census of said Indians, and their children, now living to be taken; and when completed, he shall be authorized to issue scrip for the amount due to each family, basing the value of the land provided as aforesaid at four hundred dollars, which scrip shall entitle the parties, their heirs or assigns to locate the same at one dollar and twenty five cents per acre, upon any unoccupied lands of the United States subject to location, preemption occupancy by a citizen thereof, and upon such location a patent shall issue for the land, vesting the title thereto, in fee simple, in the locator, his heirs and assigns,

Article 3. - The United States further agree to enquire into, and ascertain the losses which members of said bands, entitled to participate in the stipulations of the treaty of eighteen hundred and thirty eight aforesaid, have sustained in consequence of being driven from their possessions in Kansas, and the amount found to be due by the Secretary of the Interior, upon the principles of equity and justice, shall be paid to the parties respectively,

Article 4 It is further agreed that the scrip herein mentioned may be located upon the south half of the lands purchased of the Osage tribe of Indians, by the treaty concluded on the twenty ninth day of August eighteen hundred and sixty three, at any time after the ratification of said treaty; and the lands located under the provisions of this section shall be exempt from taxation for the period of five years from the date of the ratification of this treaty,

Article 5. – For the reasons stated in the preamble hereto, it is provided that such of the New York Indians as have heretofore had lands allotted or patented to them within the limits of what is known and herein designated, as the New York Indians lands, may receive scrip as the other members of said nations, in lieu of such allottments or patents, and the application for, and the receipt of said scrip shall operate as a relinquishment of all claim or interest in and to the land thus allotted or patented,

Article 6 As a compensation of his proportion of the four hundred thousand dollars under article fifteen of said Treaty of eighteen hundred and thirty eight, each member of said bands, parties to or accepting the provisions of this Treaty, shall be entitled to receive the sum of seventy dollars, which shall be paid them, under the direction of the Secretary of the Interior as soon as practicable after the ratification hereof,

Article 7 – The Secretary of the Interior may issue the scrip herein provided for, in such sums as he may deem advisable, provided that no certificate shall issue for less than the sum of fifty dollars,

Article 8 – The amendment or rejection of one or more of the articles of this treaty shall not invalidate the others, but the same shall go in effect when ratified by the Senate and approved by the President

Article 9 It is understood and agreed that the provisions contained in this treaty for the benefit of said New York Indians shall not extend to any member thereof, who by treaty or Convention has received any advantage or provision by virtue of a treaty or convention subsequent to the treaty of eighteen hundred and thirty eight, aforesaid,

Ezekiel Wiggins
A. G. Dick
Thomas Hill
Adam Wilson
In presence of
S. W. Johnson
W. G. Coffin
Supt. Ind. Affs.
S. C. Pomeroy.

Wm P. Dole
Commissioner
Wm C. Woodman
Louis C. Daney
John W. Woodman
Michael Grey
Benj. Loucey
Dennison W. Abner

grant to Isabella Hill of the Town of York in the County of York in the Home District Widow of the late Major George Hill, and also Widow of the late Captain Henry Ford of the Marine Department of Upper Canada deceased — Isabella Ann Hall wife of Charles William Hall of the Island of Jamaica Esquire Daughter of the said Henry Ford — and Eliza Archange Wallen wife of Edward Pennock Wallen of the said Island of Jamaica Esquire the other Daughter of the said Henry Ford as Devisees named in the will of the said Henry Ford — bearing date at Detroit the second day of May 1793 — as Tenants in Common — All that parcel of land in the Township of Southwold in the County of Middlesex in the District of London — being Lots No 5. 6. 7 & 8 in the 1st Concession with the small broken lots in front thereof —

That is to say, commencing in front on the River Thames in the limit between lots No 8 & 9 —

At the

At the North West Angle of the said Tract
Then South 45 Degrees East 94 chains 60 links
more or less to the allowance for Road
between the first & Second Concessions
Then North 45 Degrees East 120 chains
more or less to the limit between Lots
No 5 & 4 —
Then North 45 Degrees West 50 chains
more or less to the allowance for Road
between the Townships of Southwold
& Delaware — Then South 70 Degrees West
along the Southern limit of the said
allowance for Road 113 chains more or
less to the River Thames; Then along
the waters Edge with the Stream to the
place of beginning —
Containing 800 acres more or less with
an allowance for road between Lots
No 6 & 7 —
For which an allotment of 114 acres and
2 sevenths is made for a Protestant
Clergy, in lot No 9 in the 1st concession
of the said Township of Southwold
Order 1st claim of Comds Regt R in July
1814 under the Administr of Mr. President
Drummond

Drummond & Regt. prior to 1st July 1796.

Signed, Thos. Redout
Lieut. Gov.

S. G. O. fiat No
Description Number 2779. 6.

S. G. O. 22 Feby. 1815

A. G. O. No. 10 Patent fee paid to the Recr. Genl.
8th Feby. 1815

A. G. O. No 1446
21. Feby. 1815

Ordr. Nomn. Lt. Henry Ford of the
Marine Dept.

O. C. 10. July 1793.

Dept. Crown Lds.
Quebec Jany. 20th/64
Ext & Cert. true Copy
Thos Russell
Asst. Comr.

Certs. Gen. in Canada
Oct. 28 1869
[illegible]

Grant to Honble James Baby

of the Township of Sandwich

in the County of Essex

in the Western District Esquire

all that parcel of Land

in the Township of Delaware

in the County of Middlesex

in the District of London being

Lots Numbers 18 & 19 in the Concession B and

in the Broken Concession A that is to say,

on the East Side of the River Thames

Commencing in front ~~of the said~~ ~~Concession~~ upon the River Thames,

at the ~~North East~~ South West Angle of certain Land ~~the said Lot~~ granted to the Honble Peter Russell ~~then South~~ and a ~~degrees~~ the North ~~minutes East~~ West ~~Chains~~ Angle ~~Links~~ of the said Lot No 18 in the broken Concession A – then North 70 degrees East 95 chains more or less, to the allowance for Road ~~in the rear of the said Concession~~ between the Concessions

B & C – then South 20 degrees East ~~minutes West~~ 60 Chains 60 Links

more or less, to the limit between Lots No. 19 & 20

then ~~North~~ South 70 degrees ~~minutes~~ West to the ~~Chains~~ River ~~Links~~ Thames

~~more or less, to the allowance for Road in front of the said Concession~~

then North Westerly ~~degrees~~ ~~minutes East~~ along ~~Chains~~ the water ~~Links~~ Edge against

the Stream – more or less, to the place of beginning

containing 484 Acres, more or less. with allowance for road

For which an allotment of 69 Acres and 1 seventh

is made for a Protestant Clergy, in Lot No. 17 in the

4th Concession of the said Township of Delaware

Order in Council 10th March ~~day of~~ 1806 ~~18~~

Under the Administration of ~~Lieutenant Governor~~

for 484 acres of Land to make up his 600 acres

Under the Regulations ~~of~~ ~~aided~~ as an Executive Councillor

upon 22 Dec 1797 under the administration

of Mr President Grant C. B. Wyatt

Warrant No. 4111 Exempt from Survey Surveyor General. U. C.

C. O. No. 1143 S. G. O. fiat No. 773

A. G. O. No. 6174 Description Number 10.985

R. G. O. No. 1148 Patent fees paid ~~settlement duty performed~~.

12. March 1806

Surveyor General's Office, 12 March 1806.

~~Yorks~~

Dept. Crown Lds.

Quebec June 16/64

Ex^d & Cert true Copy

Wm Mosell

Asst. Commr

Exd. & Cert

His Honor Peter Russell Esq.

A certain Tract of Land, in the Delaware Township lying and being situated upon the Eastern side of the River Thames, in front of the Lots No 16 & 17 first concession — County of Norfolk Western Dist.

Commencing where a Post has been planted in front of the 1st concession in the limit between Lots No 15 & 16 — then South 70 degrees west to the River Thames, or la Tranche; then along the Edge of the said River, with the stream, according to its several courses and windings, till it meets the produced limit between Lots No 17 & 18 —

Then along the said Limit, North 70 degrees East, to the front line

of the

of the first concession: & then North 20 degrees West, along the said Concession Line, 59 chains & 60 links, more or less, to the place of beginning - containing about 800 acres, may there be more or less, than that Quantity - with allowance for Roads - for which 114 acres & 2/7th are reserved pr margin -

In Lot No 23 B. concn

(Signed) J. W. Smith
A. S. G.

No 2936

with O. C.

4098 Warrant

Dept Crown Lands
Quebec June 16/64

Norman Russell
Ag. Com

Department of the Interior,
Office of Indian Affairs,
Washington, D.C., January 20, 1869.

Sir:

I have the honor to enclose, herewith, a treaty between the United States and the New York Indians, concluded December 4, 1868, at the Council-house on the Cattaraugus reservation, in Erie county, State of New York, with accompanying papers, also, copies of said treaty and accompanying papers for the use of the Senate, for transmission to the President of the United States, to be by him laid before the Senate of the United States, for its constitutional action, if he shall concur in its provisions.

A statement of the reasons which have led to the formation of the enclosed treaty, is briefly given as follows:

Anterior to the resolution of 1775 Massachusetts claimed, by virtue of charter, certain lands within the limits of New York. Subsequently Massachusetts and New York agreed that the soil should belong to the latter State, but the right of soil should pertain to the latter State, subject to the Indian occupancy. The Indian

[illegible] combined and consolidated [illegible] termed the "Six Nations." President [illegible] early in his administration, adopted measures having in view the removal west of the Indians resident in New York.

The matter culminated in a treaty with the Menomonees in 1832 (Statutes at Large, Volume 7, page 405,) by which a tract of 500,000 acres was set apart in Wisconsin for the various tribes then residing in the State of New York.

Thomas L. Ogden and Joseph Fellows, the assignees of the State of Massachusetts, urged a settlement, which resulted in a treaty concluded at Buffalo creek January 15, 1838; (Statutes at Large, Volume 7, page 550,) by which provisions were made for what were by that treaty conceded to be the rights of the "Six Nations," and by the stipulations of which treaty the said Indians relinquished to Messrs Ogden and Fellows their four reservations in the State of New York, viz: Cattaraugus, Allegany, Buffalo Creek and Tonawanda reservations, they relinquished their claim to the lands set apart in Wisconsin, and it was provided that they should receive land in the State

of Kansas, (United States Statutes at Large, volume 7, page 551.)

Differences arose concerning the terms and conditions of the treaty, a treaty was made in 1842, (Stat. at Large, vol. 7, p. 5[illegible]) with the Seneca nation of said Indians; by the terms of which they retained two reservations, viz. Cattaraugus and Allegany, and ceded to Ogden and Fellows two reservations, viz. Buffalo Creek and Tonawanda. The stipulations of the treaties referred to, remaining unexecuted in many particulars on the 5th of [illegible] 1857, a treaty was concluded with the Tonawanda band of Seneca, (Stat. at Large, vol. 11, p. 735;) by the terms of which all claims of said band were ceded to the lands which were to be given to New York Indians, under the stipulations of former treaties referred to; a purchase was made of a part of the Tonawanda reservation, and other stipulations were made in regard to said band.

On the 2d day of September, 1863, a

occupancy.

treaty was concluded with the Oneidas of the New York Indians, who had left to Kansas, and the treaty was laid before the Senate for ratification. This treaty was suspended in the Senate until treaty stipulations could be entered into with the Indians in the State of New York, to adjust all matters between them and the United States which required adjustment.

The enclosed treaty has been concluded with said Indians, which provides, in the first article, for the surrender and relinquishment to the United States all claims, severally and in common, as tribes and bands of Indians, to the land west of the State of Missouri, and all right and claim to be removed thither, and for support and subsistence after such removal, and all other claims against the United States, under treaty with the New York Indians of January 15, 1838, and the treaty with the Senecas of May 20, 1842; their rights to reservations at present occupied by them not to be in anywise impaired by this treaty.

It further provides, in the second article, that, in consideration of such surrender and relinquishment,

specified in the treaty, [illegible]
to three hundred and twenty dollars for
each and every person entitled to par-
ticipate in the provisions of the treaty of
January 15, 1838; the number of persons
so entitled to be ascertained in the manner
pointed out in said article, and the
estimated amount required to be report-
ed to Congress for an appropriation.

Articles three and four provide
for investing and paying out the money
appropriated for the Indians by Congress
under the second article of this treaty.

The fifth article provides that
the Secretary of the Interior may sell, to
the white persons occupying the same,
the allotments of land made to certain
New York Indians, who removed to
Kansas, for $1.25 per acre, the proceeds
of the same to be paid to said Indians
or their legal representatives, upon proof
of identity, &c.

Article six provides that the
Secretary of the Interior shall appoint a
commission to ascertain the losses sus-
tained by members of the tribes and
bands, parties hereto, entitled to partici-

pate, subject to the Indian right of
occupancy. The Indians were forced
return to the former

pate in the treaty of January 15, 1838, in consequence of being driven from their lands in Kansas and the destruction of their property — the amount so found due to be reported to Congress by the Secretary for its action.

The Seventh Article provides that any mixed bloods of any of the Indians parties hereto, now living, shall be entitled to all the rights and privileges under this treaty of full bloods of the tribe or band to which they belong.

Very respectfully,

Your obedient Servant

N. G. Taylor,

Commissioner.

Hon. O. H. Browning,
Secretary of the Interior.

N. G. Taylor, Indian Comr
with Treaty of 1868.

My Dear Friend Fox Chase Phila.
Judge Cooley June 30th 1869

After expressing my heart felt acknowledgment for my kindness in promoting our interview with the President Elect & other services rendered to our delegation whilst in Washington I may inform, that there will reach a communication from Joseph Scatterpood & myself, in which are set forth some facts in connexion with the late Treaty with the New York Indians, that may assist in procuring its ratification by the Senate, which it now is, having received the approval of the Secretary of the Interior & the President

But my chief object in writing is to call my attention to the situation of those Oneidas who participated in the Treaty of Buffalo Creek in 1838 & subsequently settled in Canada on land purchased with their own money and where they now live in very straitened circumstances & numbering from 500 to 600. These Indians were intended to be included in the late Treaty as these words will show "residing in the State of New York or elsewhere". They were so at my request by Walter R Jones who doubtless recollect was the Commissioner on that occasion & who said it readily on being made acquainted with all the attendant circumstances

Without going at present entering a detail of my intercourse with that band of Indians

Jun 30-1869

I suppose it to say that a few days ago I received from them a full power as their attorney in these words 'to act for said constituent in prosecuting before the Government of the U S their claim to a share in the appropriation made by the Treaty of 6th Dec 1848, by the 2 article of said Treaty it being stipulated that the U S agree to pay & meet an amount equal to 320 dollars for each person entitled to participate in the provisions of the Treaty of Jan 15. 1838 The closing paragraph is in these words, also with power of substitution & revocation hereby promising to ratify & hold for firm & valid all & whatsoever their said attorney shall lawfully do by virtue hereof— The power of attorney is signed by all the Chiefs and Delegates ~~by Abraham Sarbly & Peter Jones~~ and attested by Wm Livingston the Not Pub

This power I wish to transfer to myself, believing that their interest will be better attended to by acting myself ~~I have never charged them a cent for my services but have expended a considerable amount of money in their behalf and for my pains~~. The present Commissioner of Indian Affairs & Col Mix have both expressed to me that in their opinion these Indians have an equitable claim with the Oths for a share in such appropriation as may be made by Congress— Some attorneys have been urging for employment in this case & the means taken reflect no credit on them either as men or lawyers

Nothing has yet been said to [illegible]
tion to matters that transpired before
a doud I had better have the liberty to
do so, now in case they appear on what
terms will the undertake it –
My ardent desire is to have these poor
people included so as to secure the bene
ficial possession of the late Treaty; if so
be, there will be no objections as the remo
val from one side of a line to the other can
not affect a just claim, the party remaining
being at peace –
These poor people have respected a
dent to me, which of course
not being prepared in accorda
Treaty but from which I infer
they be included there will
leave concerned dear Sam –
~~In case be [illegible] may I [illegible]~~
~~My attention [illegible]~~
And now in the spirit of kindness may I
to the admonition contained in Rev 22 Chap
having endeavoured to act in no ~~[illegible]~~ conformity
Especially when ~~Rev Rod [illegible]~~
hitherto were concerned – for dear Sir
that a man's life consisteth in the abundance
which he possesseth Desiring that our future intercourse
may be as pleasant as the past I am my sincere
friend
Alex Geo McKay

Request on leaving Washington
Motion
to Low Chop I call the
[illegible] School & Entertain as sincere a friend as

Sub Agent S. Osborne writes to Commissioner Crawford under date Sept 30th 1845 thus

The Seneca nations, who for several years past have had a great deal of difficulty growing out of the sale of their lands, are becoming more reconciled - that portions of those residing on the Buffalo Creek reservations, have most of them complied with the terms of the treaty of May 1842 by securing their improvements to the Ogden Company & receiving the amount of money awarded to them individually under said treaty & removing to Cattaraugus & Allegany - the sum paid to individuals for their improvements amounts at this date to $34,886

Commissioner Crawford in his report to Mr Wilkins Secy of War says in 1844

The sums which the Indians interest in the lands (Buffalo & Tonawanda reservations) was reported to be worth (viz $75000 has been paid and invested in the six per cent United States bonds of 1842 according to the provision of the 5 Article of said treaty - the amount at which the improvements were put are payable to the President on the surrender thereof for distribution among the respective owners

C P Walbridge under date Oct 1851 writes to Commissioner Lea thus - all the annuity money for the past year has been accepted by the Indians except a portion of 5 pr cent on the $75,000 paid by the Ogden Company for Seneca lands which was refused by the Tonawandas through fear that their acceptance of it might operate as a waiver of their claim to their reservation

1868

1866

Commissioner Cooley says in his Report for 1866 "The New York Indians have been from time to time pressing upon the government the settlement of a claim to a large amount – about 500,000 acres – of lands in Kansas which was secured to them upon the cession to the United States of their rights to lands in Wisconsin – Very few of the Indians removed to Kansas – and after long delay action was taken by the department some years ago by which these Indian lands were thrown open to white settlement – It is my opinion that the Indians have a valid claim against the Government arising out of this transaction but when the case came up during the past year it was not deemed advisable to undertake departmental action – I trust that Congress will by legislation provide for an Equitable settlement of this claim"

1867

Acting Commissioner Mix says in the report 1867 "An old and unsettled question exists between these Indians (Excepting the Tonawanda) & the government arising out of the treaty with them of 1838 providing for their lands in the West and for their removal – I am of the opinion that an arrangement for the settlement of the matter should be effected upon a basis similar to that adopted in negotiating the treaty with the Tonawandas of the 5th of 1857 – In his report to the Dept in 1864 he alludes to

on their going from Green Bay to Canada, to whom I stated
with them near Ft. Gratiot. Moses Schuyler and
August Comenchee were
two men that I met opposite
Fort Sarnia in canoe.

In the year 1849 when returning from the Mississippi
mission I met with two Oneida Indians from whom
with them near Fort Gratiot, they intending for Canada
I said, should trouble or mistake your remember your old
friends in Phila still continue to feel an interest in
and ~~remember~~ are disposed to assist you, having stated the
chain of friendship still in their hand to which we are looking fast
After the lapse of one year I saw one day a man approached
Indian who I did not recognize, but who proved
of the Indians above referred to by giving my name to the
& Washington to urge their claim on the Government
home land in Kansas, ~~to which the~~ of the other
offer of assistance from to some fund
entirely forgotten by me - the acquaintance
commenced accompanied and
tide we only going to be
as expressing their condolence to
be more fully to represent their
either we intended to proceed on their
for that that precedent time prevented
fulfilling
good faith, the Commissioner
of offer to see after. In the Fall 1854 I had
interview with Commissioner
he was consequently with the subject
to direct to it, but if we would expect
adjournment of congress, he would
and deem any suggestions we had to
not strictly followed in which we have

the [illegible] of the N Y Indians to 1,800,000 acres of land in
5 [illegible] which we desired to include the Oneidas
[illegible] the Mares in ~~Canada~~ to or they interpolated
the Tuesday of Buffalo Creek in 1838. by which 500,000
[illegible] of land in (Michigan) were given to Menomonees
[illegible] subsequently changed. At the request of the
[illegible] for the Kansas lands — after a full d
[illegible] interchange of sentiments. Commissioner
[illegible] Taylor promised that he would consider
[illegible] of the N Y Indians in Illinois for the purpose
[illegible] their long standing claims, & should
[illegible] understood that we should be prepared
[illegible] after another visit to Washington & seeing
[illegible] the next Special Commissioner Walter R Co
[illegible] on the 5 of the Prairie 1868. The N Y Tuscaroras
[illegible] fourteen years attendance on per
[illegible] Indians left going on the ex
[illegible] of the day for the entry of the Commis
[illegible] that it was received on the 30 of Nov
[illegible] forwarded to Seneca immediately
[illegible] too late for them to be presented to the
[illegible] responsible lies resting on
[illegible] have the chance pretended — In some
[illegible] doubtful at to our success but after
[illegible] conversation with them I was well acquainted
[illegible] the Indians of the three tribes of the Canada
Indians were allowed to come in on the same terms as
[illegible] they receive 320 dollars for each portion of the
tribe — the Interest to be paid annually in coin.

1857 — In his report to

I also attended this council as one of a sub Com
appointed by our Indian Committee in consequence
of a resolution adopted by the Seneca nation
Council assembled at the Allegheny Reservation
August 28. 1848 requesting the assistance of friends
at the expected Treaty at Buffaloe. The friends
of that committee who attended were J. R. Elliott
Rhoads & myself. The application of the Indian
Indian was addressed to Dr Rhoads & myself
on this occasion as you are to write
with the whole matter we shall feel
under deep obligations to you and
possibly be at the commencement
During the progress of the
from the results depend
tiary chancel
Lower Wheel
Lines called
later hour on the
holiday, returned
got through with

[illegible]

1868

times there was a doubt at to our success but after we [illegible] some with whom I was with argument and the Indians of the three tribes of the case the Canada Indians were allowed to come in on the same terms as (included in the Treaty) ~~the Chippewas receiving 300 dollars for their portion of the~~ the Indians to be paid annually in coin.

155 [illegible] [illegible]

visit to Cattaraugus this for the purpose of negotiating with the New York Indians for the Extinguishment of their title to the lands in Kansas set apart for them by the treaty of Jan 15. 1838 upon the terms embodied in the outline of a treaty which was furnished me with my instructions. 1864 page 481

Commissioner Dole wrote to Secretary Usher under date Nov 1864 Directions having been given for the survey and sale of the lands in Kansas belonging to the New York Indians without first providing for the extinguishment of their title thereto. The Indians were of course dissatisfied & made urgent appeals for compensation or indemnification for the spoliation - their claims being undisputed & just Mr C Ellis chief clerk of this office was appointed on the 5th of May last Special Commissioner to visit these Indians for the purpose of entering into a convention to extinguish their title to said lands & provide a just and fair remuneration

of the Seneca expressed the satisfaction they had felt with our company & assistance & thanked us very heartily for the help we had rendered. Other Indians also expressed the gratification it had afforded them to have ~~been~~ us with them. The Commissioner ~~treated~~ this secretary & other white persons present several of whom were attorneys treated us with marked respect and the former did not hesitate to state that he doubted whether a treaty could have been made without the assistance we rendered. We are of the opinion that the terms of the treaty are as liberal & fair as could have been expected under the circumstances & if ratified will give general satisfaction

Signed —

Thomas Wistar

Joseph Scattergood

James E Rhoads

3rd mo. 1869.

Extracts from Indian Grant correspondence Kansas Claims

Report of Commrs on Cattaraugus Treaty 1869

On the day the 4th the Council met pursuant to adjournment and the Commissioners again read the Twenty third article stating previously that he had made some alterations at the suggestion of the Indians with the consent of some of the delegates. As each article was read the Indians were requested to say whether they agreed to it or not by one of their delegates who in turn bring here the secretary reduced the decision. All the articles were agreed to except two at this division. The Indians objected to allowing the Ogden land Company money for the extinguishment of their claim to their lands and also permitting the half breeds to partake of the benefit of the treaty upon these two points considerable discussion ensued it was finally agreed to adjourn until the afternoon in order to give the Indians time to confer together. In the afternoon the Indians informed that the article respecting the participation of the half breeds was agreed to but the provision respecting the Ogden Co was not approved. A proposition was made by which the article was so altered as to allow the appropriation at any time hereafter of a sum not exceeding $25000 for the extinguishment of the claim if the Indian nation should so decide but not until they so decide. In this form the article was agreed to & the council adjourned to the evening when a fair copy having been made it was again read & was duly signed sealed and the Council dissolved —

After the Council was dissolved Isaac Halstead rebel

important occasion in which the United States might make
the propositions of the government of Great Britain might make
mistake in coming to a conclusion upon them. He then stated
briefly the most important features of the propositions they had
asked us to give them our advice. As the Commissioners had not
made his proposition in writing we declined entering into
consideration of them or giving any intimate respecting
which they were prepared written out. The propriety of this
was at once seen & upon the invitation of the President we
to make the delegation & each others in close
coming & procure a copy of the proposition they
that time on. At the meeting of the Council
they the Commissioners inquiring if any
a decision upon the proposition
after hours
having the order that
party to consider
proposition this night
in the evening we met
the different propositions
upon which time to or a
[illegible]
the terms of settlement after our
consideration
Again until after midnight during which
vote upon all the articles of the

The committee appointed upon the request of the Councillors of the Seneca Nation to be present at the meeting of the Commissioners with the government for the settlement of the claims of the New York Indians for lands in Kansas assigned to them by the treaty of 1838 Report - That owing to the delay in the receipt of a letter from Washington informing of the time fixed upon for holding the council we did not reach Leavenworth until the morning of the 3d of 12th month. The Council in accordance with previous notice had assembled at the Council House the previous day before the meetings of it had been resumed in reading the names of delegates from the different tribes and preliminary conversation interchange of views upon the objects of the conference. On the morning of the 3d the Commissioner Walter H. Newin had informed the Indians what the government would agree to and upon arriving at the Council House we found them discussing some points of the propositions made to them. After some points had been commented upon, the Commissioner adjourned the Council in order to give the Indians time to reflect upon the views presented and come to a conclusion as to their willingness to accept or reject them. Upon the adjournment of the Council we were requested to meet the Seneca delegation which we did & were addressed by the President of the Nation Isaac Halftown who informed us that they had invited us to be present on that

3 Mo 1857 See Minutes Vol 4 p 202

after the Council was dissolved Isaac Halftown rebel

41st Congress, 2d Session. | SENATE. | Report No. 145.

IN THE SENATE OF THE UNITED STATES.

May 3, 1870.—Ordered to be printed.

Mr. Buckingham submitted the following

REPORT.

The Committee on Indian Affairs, to whom was referred a treaty between the United States and the several tribes and bands of Indians residing in the State of New York, concluded at the council house, Cattaraugus reserve, New York, the 4th of December, 1868, respectfully report:

By the treaty concluded with the New York Indians, December 4, 1868, which is now presented to the Senate for consideration, the Indians surrendered to the United States all claims severally and in common to land west of Missouri, and all right and claim to be removed thither, and for support after removal, and all other claims against the United States under the treaty between the United States and the New York Indians, concluded January 15, 1838, and with the Senecas concluded May 20, 1842, except their rights to the reservation then occupied by them.

In consideration of which the United States agreed to pay and invest $320 for each and every person entitled to the benefits of the treaty of January 15, 1838; the amount to be determined by a registry of all the Indians parties to this treaty residing in New York, and those who reside elsewhere but belong to those tribes, and all who are not upon reservations or permanently connected with other tribes, and who may elect to become registered within one year from the time of ratification of the treaty.

The treaty provides for paying and investing the money which may be appropriated by Congress, and authorizes the Secretary of the Interior to sell to white persons who occupy lands in Kansas, such lands as have been allotted to New York Indians at $1 25 per acre, and to pay the proceeds thereof, being $400, to each Indian, or their representatives, upon proof of their identity, within two years from the ratification of the treaty.

It also authorizes the Secretary of the Interior to appoint a commissioner to ascertain the losses which members of the tribes entitled to participate in the stipulations of the treaty of January 15, 1838, have sustained in consequence of being driven from their possessions in Kansas, and to report the same to Congress. It also gives Indians of mixed blood all the rights of full bloods of the tribes to which they belong.

Under date of February 7, 1870, the Onondagas, Senecas, and Cayugas, in a communication addressed to the honorable Commissioner of Indian Affairs, represent that the treaty concluded by them on the 4th of December, 1868, by Walter J. Irwin, a commissioner on the part of the United States, failed to award justice to their people; that the terms of surrender and relinquishment contained in the treaty were assented to

by them under fear that if they were not accepted as presented by the Commissioner no adjustment of their rights would be secured, and at the time they reserved the right to appeal to the Senate for justice denied by the Commissioner, and they now submit a statement by their counsel, and ask that the treaty be ratified with the amendments substantially therein asked for.

The councillors of the Seneca nation, through their president, state that at a meeting held by them upon the Cattaraugus reservation January 26, 1870, they had the aforesaid treaty under consideration, and they now represent that several articles in the treaty were detrimental to their interests; that in the hurry of the Commissioner to rush the treaty through, sufficient time was not given to consider the effect and bearing of the several articles, and that they fear that the first article of the treaty contains provisions which release the United States from all liabilities in the payment of annuities prior and subsequent to the treaty concluded January 15, 1838, and of the treaty concluded with the Senecas on the 25th of May, 1842. They therefore ask an amendment to this article in order to remove all ambiguity, as well as other amendments substantially like those asked for by the attorneys of the several tribes.

By the first article the Indians release all claims against the United States under the treaties of 1838 and of 1842.

By the treaty of January 15, 1838, the United States agree to pay all such annuities as shall properly belong to the Indians, and the question is whether the present treaty releases these annuities. The Indians now claim that their release was not intended to include and did not include annuities. The Hon. N. G. Taylor, Commissioner of Indian Affairs, in a letter upon this subject, addressed to Senator Ross, April 1, 1869, says: "It is not intended that the first article of the pending treaty should cut off annuities payable under former treaties, or release the government from the payment of any moneys now held in trust for the benefit of any of the tribes, parties to the pending treaty. By the provisions of said article the Indians relinquish all claims under former treaties, but this would not include moneys held in trust for them by the United States."

To prevent misunderstanding the Indians ask that the first article of the treaty may be amended by adding the words, "nor shall the government be discharged from the payment of any annuities payable under treaties prior to 1838, or the payment of moneys now held in trust for the benefit of any such Indians"

The Indians also ask that the second article of the treaty, which gives to each person entitled to participate in the beneficial provisions of the treaty $320, be amended so as to give each $393. They base their claim upon the ground that the United States, in a treaty with the Tonawanda band of Senecas, concluded November 5, 1857, agreed to pay that sum to each member of that band, and in so doing the United States recognized their right to the value of three hundred and twenty acres of land for each member of the tribes, and to the proportionate share of each to the $400,000 appropriated to aid in their removal. Under that treaty the Tonawanda band received $73 85 each more than will be paid to each member of other tribes under the provisions of the present treaty. The commissioner who negotiated the pending treaty refused to recognize the right of the Indians to any part of the $400,000, because the treaty provided that those Indians who should not accept and remove within five years, or such other time as the President might appoint, should forfeit all interest in the lands. As a matter of fact,

the President never appointed any time for their removal, nor has the government ever made an appropriation to aid in their removal, except the sum of $20,477 50, appropriated in 1843 to aid in the removal of two hundred and fifty of their number.

The last paragraph in the third article in the pending treaty provides that the Secretary of the Interior shall have authority to set apart so much of the appropriation as he may think proper to be expended by him in the payment of liabilities which have been incurred by the Indians, parties to the treaty, such payment to be authorized by the Indians and to be made in the discretion and with the approval of the Secretary.

On the 26th of January, 1870, a council was held by the councillors of the Seneca nation of Indians, in the county of Erie, in the State of New York, at which it was resolved to earnestly appeal to the President of the United States to have the above proviso stricken out.

Under date of the 1st of February last, the Onondaga chiefs, with Senecas of Cattaraugus and Alleghany reservations, addressed a letter to the Hon. Ely Parker, Commissioner of Indian Affairs, saying that they had learned that the Onondagas at Onondaga Castle had employed attorneys to prosecute their claims for lands against the government, for which they were to receive twenty-five per cent. of the amount obtained; that they feared that such a proportion of the amount justly due them would be withheld by said attorneys whom they had never employed, and they ask to be excluded from such payments.

Under date of the 27th of March last, the council of the Alleghany reservation represented to the Hon. George Barker that the Seneca council in January last passed a resolution praying the Senate to strike out one article in the treaty, which provides that a certain sum should be set apart for the payment of the public debt of the several tribes; that said resolution was the last act of the council before adjournment; that the next day the councillors of the Alleghany reservation became convinced that the council had erred, and signed a paper requesting the president not to send the resolution to Washington, and that the action, so far as the Alleghany councillors are concerned, was under a misapprehension of the case.

The Oneidas, Senecas, Cayugas, St. Regis, and Onondagas, by their chiefs, assembled on the 6th day of April, instant, and the Oneida chiefs assembled on the 8th instant, express a desire to have the treaty ratified with the provision for paying their debts as it now stands in the treaty.

The agents claim that they have been engaged about eleven years in prosecuting these claims for the Indians; that they have paid out large sums of money in their efforts to secure the rights of the Indians; that if it shall be left altogether with the Indians they will be in danger of losing their labor and the money which they have paid out, and that it will be safe for the Indians to leave the matter with the Secretary of the Interior as provided in the treaty.

It is also proposed to add another article to the treaty, by which the Secretary of the Interior shall, before he invests the amount appropriated by Congress, set apart an amount to be used by him in providing homes, and locating and establishing thereon Indians, who are entitled to the beneficial provisions of this treaty, who have no permanent homes, provided that the amount so set apart and used shall not exceed the pro rata share of the Indians for whose benefit such division shall be made.

In order to judge of the propriety of ratifying the pending treaty,

we should examine the title which the New York Indians have to the lands which they propose to relinquish, and for which payment is required of the government.

By a treaty between the United States and the Menomonee Indians, concluded December 26, 1817, which purports to be a treaty of peace, the Indians confirm to the United States all and every cession of lands previously made between them and the British, French, and Spanish governments within the limits of the United States or their Territories; also all and every treaty, contract and grant heretofore concluded between the United States and them, and placed themselves under the protection of the United States government.

But on the 18th of August, 1820, the Menomonees unite with the Winnebagoes, and cede to the Six Nations and others a tract of land on the Fox River, for which they were paid $500 in cash, and promised $1,500 in goods in one year. On the 23d of September, 1822, a treaty was made ceding other lands, principally to the New York Indians, for which they paid $1,000 in goods, and promised to pay $2,000 in addition. The President approved these treaties between the different Indian nations, and authorized the lands to be held in the same manner as they were held by Indians who previously owned them.

Much difficulty having arisen between the Menomonees, Winnebago and New York Indians, in relation to the boundaries of the lands lying west of Lake Michigan, the parties agreed to leave the whole matter to the President of the United States; and in the treaty concluded February 8, 1831, between the United States and Menomonees, the Menomonees protested that they were under no obligations to recognize any claim of the New York Indians to any portion of their country; that they received no value for the land claimed by these tribes, yet, at the solicitation of the President, and in consideration of $20,000, which the United States promised to pay, they agreed that such part of the land described may be set apart as a home to the several tribes of New York Indians who may remove to, and settle upon, the same, within three years from the date of the treaty, and stated in the treaty that it was intended for a home for the same tribes of New York Indians who may be residing upon the lands at the expiration of three years from the date of the treaty, and for no others.

It is also provided that if any lands remain unoccupied by any tribe of the New York Indians, such portions as would have belonged to the United States shall revert to the United States.

On the 27th October, 1832, the New York Indians, in a treaty with the United States, say that, to settle a dispute between them and the Menomonees, they believe that the terms stated in the agreement are the best that could be obtained from the Menomonees, and they are compelled by a sense of duty and propriety to say that they accept the same, by which they evidently had reference to a treaty concluded that day between the Menomonees and the United States, by which the grant to the New York Indians was restricted to five hundred thousand acres.

September 3, 1836, the Menomonees again cede to the United States the residue of the lands sold to the Six Nations in 1821, and lands ceded to the Six Nations and others in 1822, and all lands owned by them. The Six Nations assented to this agreement, and requested that the treaty be carried into effect.

By a treaty between the United States and the New York Indians, concluded January 15, 1838, the New York Indians relinquished to the United States all lands at Green Bay, except a tract upon which a part of the New York Indians then resided, for which the United States set

apart, west of the Missouri, as a permanent home for all the New York Indians who had no permanent home, one million eight hundred and twenty-four thousand acres of land, being three hundred and twenty acres for each member of the tribe, and agreed to appropriate $400,000, to be applied, from time to time, to aid in removing to their homes, and in supporting themselves for the first year after their removal, to assist them in education, and in being taught to cultivate their lands, in erecting mills, purchasing domestic animals, farming utensils, and acquiring a knowledge of the mechanic arts. But it was agreed that those who did not accept and remove within five years, or such other time as the President might appoint, should forfeit all interest in the lands.

In view of these facts the committee are of the opinion that no right to lands in Wisconsin and west of Missouri was ever vested in the New York Indians, except the right of occupancy; that an equivalent for the amount paid by them to the Menomonees for lands in Wisconsin was received by those who removed to and settled upon those lands; that the Indians who never removed to the lands set apart for their permanent residence in Wisconsin, and who never removed to and became located on lands set apart for them west of Missouri, did not comply with the requirements of the treaties, and are not entitled to any interest in the lands nor to their proceeds. Also, that the treaty concluded with the Tonawanda band, November 5, 1857, authorized the payment of moneys to the members of that band, to which they had no claim under former treaties, and should not be regarded as a precedent by which the government should be bound or guided. They therefore report adversely upon the ratification of the treaty.

Report of Sects
Com: of Indian Affairs
5/3 1870

Views of Eli H. Price on the claims of the New York Indians

The documents Nos. One to five, read consecutively will present clearly the rights of the New York Indians to their lands in New York, Wisconsin and Kansas. Their right and title, such as the Indians enjoy in the lands they occupy, is clearly shown to all the lands; and Governor Buckingham's report to the Secretary does not controvert the position that such title was acquired by them, but he says "that the Indians who never removed to the lands set apart for their permanent residence in Wisconsin, and who never removed to and become located on lands set aside apart for them west of the Missouri, did not comply with the requirements of the treaties, and are not entitled to any interest in the lands nor to their proceeds." p. 5.

Does it become the dignity and justice of the United States to rest their title on the basis of a forfeiture of their title by the Indians? The U.S. Government stands before the world and all civilization as the Protectors, Guardians, of the Indian Tribes, who are in a state of infancy, or wards of the Nation. All the care and watchfulness which courts uniformly extend towards wards as respects the doings of their guardians, the United States Government owes to itself, to its own honor, to apply to its own acts in relation to the Indians; and the more so as the latter owe to the former all the protection and justice they now enjoy. The Indians are always spoken to in the Councils held with them for the attainment of peace, the purchase of their lands &c. as children of their great Father, the President of the United States. Is there any truth and sincerity in the language with which we approach them; or do the officers and agents of the Government use the language they always do use on such occasions insincerely to wheedle and delude them? Is our Government willing to stand

before the civilized world as a party willing to hasten the extinction of the Indians, and as a part of the process to deprive them of the occupancy of the lands they occupy, by a sharpness of interpretation of Treaties, which we have written for them in our language, the import of which they probably seldom comprehend, and compel a submission to a construction that no Court in the land would, for a moment, apply against a word in favor of his guardian!

As between citizens of full legal competency, where not the slightest favor or extraordinary watchfulness is exerted in favor of either party, Courts always lean against forfeitures, as productive of injustice, but keep the door open that the actual justice may be administered. Courts of Equity relieve from, and never enforce them.

It is not known that any of our Courts have ever lent themselves to any injustice towards the Indians, but their decisions stand in their reports, as every friend of civilization and lover of the reputation of his country would wish them to stand.

Though the title of the Indian tribes be peculiar; it is not an individual but a tribal ownership, which can not be alienated to a citizen without the authority of the United States, nor can the Indians be removed from their lands, without the consent and supervision of the Government; yet the Indians have their title to occupy their lands in perpetuity, as long as they exist as a tribe and choose to live upon it. To the observance of this law all the histories of our Country, and the entire course of judicial decisions, have committed our Government; and it is not supposable that a retrograde action at any time after the Inaugural address of President Grant, and the Indian policy of his administration, can be attempted with success.

Let us now consider with care the circumstances which it is said has produced a forfeiture by the New York Indians of their claim to the lands surveyed for them in Kansas. From the year 1815 movements had been made to induce the those Indians to emigrate to the North west; and it is said considerations had passed from them to the Indians at the North west to cede to them a tract of territory for settlement. Be this as it may it is enough to engage the faith and honor of the nation when the United States Government by Treaty has recognized the right and title of the New York Indians to such Territory. On the 9 Feby. 1822, James Monroe, President, ratified the arrangement that had been made between the Six Nations, (the New York Indians) of the one part, and the Menomonees and Winnebagoes, of the other part, with the caution that "the lands thereby conveyed to the Six Nations &c. are to be held by them in the same manner as they were previously held by the Menomonies and Winnebagoes." This cautionary language of the President is to guard against the construction of any other title being taken by the New York Indians than that the law recognizes to belong to Indian Tribes; but such title was taken and thereby expressly recognized. In the Treaty between the Menomonies and the United States of February 8th. 1831, at the instance of the President, the Menomonies cede "to the United States, for the benefit of the New York Indians," a country estimated to contain about five hundred thousand acres, on premises "intended for a home for the several tribes of the New York Indians who may be residing upon the lands at the expiration of three years from this date and none others;" and if any parts should not be then allotted to such Indians, it "shall revert to the United States." In the 17th. February 1831, there was suggested a modification of the above Treaty "to make unlimited the time of removal and settlement upon these lands by the New York Indians, but to leave both these matters discretionary with the President of the United States." And the

Treaty was so altered, as "that the President of the United States shall prescribe the time for the removal and settlement of the New York Indians upon the lands thus provided for them". Thus all limitation of time was annulled. 7 Statutes at Large, 342, 346, 347.

On the 27th. October 1832, the Menominee Nation, by Treaty assented to by the New York Indians, agreed to a partial change of the location of the lands intended for the latter. 7 Statutes, 405, 409.

Sept. 3rd. 1836, the Menominees ceded large territory to the United States, "saving and reserving, out of the district of country above ceded and described, all that part of the five hundred thousand acre tract, granted by the treaties between the Menomenies and the United States, made on the 8 February A.D. 1831, and on the 27th. October A.D. 1832, which may be situated within the boundaries hereinbefore described." 7 Statutes, 506.

January 15th 1838, a Treaty was made between the United States and the New York Indians, by which the treaties of 1831 and 1832 are recited; that the President was satisfied "that various considerations have prevented those still residing in New York from removing to Green Bay, and their lands, that is, "all their right, title and interest to the lands secured to them by the Menominie Treaty of 1831," were ceded and relinquished to the United States, except a defined part of which a part of the New York Indians now reside". Here is a repeated frank admission, as we owned expect, of right and title in the New York Indians and then, "in consideration of the above cession and relinquishment, on the part of the tribes of the New York Indians, and in order to manifest the deep interest of the United States in the future peace and prosperity of the New York Indians the United State agree to set apart the following tract, situated directly west of the State of Missouri, as a permanent home for all the New York Indians, now residing

in the State of New York, or in Wisconsin, or elsewhere in the U. States," and then describes the country by land marks, courses and distances, to include 1,824,000 acres, or 320 acres for each Indian; "To have and to hold the same in fee simple to the said tribes or nations of indians, by Patent from the President of the United States, issued in conformity with the provisions of the 3rd. section of the act, entitled "An act to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the Mississippi, approved on the 28th. day of May, 1830, with full power and authority in the said Indians to divide said lands among the different tribes, nations or bands, in severally, with the right to sell and convey to and from each other, under such laws and regulations as may be adopted by the respective tribes, acting by themselves, or by a general Council of the New York Indians, acting for all the tribes collectively." "Article 3rd. It is further agreed that such of the tribes of the New York Indians as do not accept and agree to remove to the Country set apart for their new homes within five years, or such other time as the President may, from time to time, appoint, shall forfeit all interest in the lands so set apart, to the United States." And the United States agree to appropriate $400,000, "to aid them to remove to their new homes, and supporting themselves the first year after their removal; to encourage and assist them in education, and in being taught to cultivate their lands; in erecting mills and other necessary houses; in purchasing domestic animals, and farming utensils and acquiring knowledge of the Mechanic arts." 7 Statutes, 550, &c.

The limitation of the five years to "accept and agree to remove" does not stand single, but is entirely thrown open by the alternative provision, "or such other time as the President may from time to time, appoint." Indeed, by this treaty, both by its terms

and the nature of the things to be done, the New York Indians were not required to agree to remove, or actually to remove, until two things had been done and presented for their consideration, namely, that Congress should make the appropriation of the $400.000, for the purposes in the treaty expressed; and that the President should fix the time or times for the Indians to remove, give them notice thereof, and appoint the officers to superintend the emigration. These are steps that must precede action or decision by the Indians; without which they can be in no default, and suffer no forfeiture of their rights. Those things were not done which alone could put the Indians to their election to remove, or forfeit their rights. No appropriation was made by Congress, no notice was given by the President as the Treaty requires. See Letter of N. G. Taylor, Indian Commissioner, March 30th. 1869; see also Tillson v Blacksmith, 19 Howard, 366.

Were this a matter between individuals, there could be no doubt that no forfeiture can have ensued on the part of the Indians; and it is not to be permitted to be believed that the United States will claim another rule of justice for the government than would be administered by her Courts between the citizens.

The Government has no greater right than an individual to to disregard or violate the obligations of these treaties: Though they are laws, they are also contracts, and neither party to a contract can violate it without liability to make compensation to the other.

The case stands thus: The United States stood Trustees of the title in trust for the New York Indians; are the Guardians and protectors of those Indians, without whose consent and active presence and procuring assistance the latter could not move from their homes; had contracted to convey the Kansas lands, and to appropriate moneys to remove the Indians to and settle them on said lands, and to give

them notice of the time or times of removal: None of those things did the Government do; but has sold the lands to others, for greater prices, and out of the proceeds has never made any compensation to her wards. Argument can not add force to the plain statement of the facts.

To the apprehension of most men who will take the trouble to investigate and consider the facts the only delinquency has been upon the part of the Government; and if so, that delinquency can give her no right to claim a forfeiture of the Indians. And the Government having sold the land to citizen settlers has disabled herself to execute the treaty, and must always remain under the charge and disability of that delinquency, while the New York Indians can never be put into that position, however great the time that may elapse before any restitution shall be made them.

The Government, therefore, owes compensation to the New York Indians, on the same principle and facts upon which the Tonawanda band, (part of the New York Indians), was compensated. Of the correctness of this conclusion I can feel no doubt.

Elis K. Price,
Nov. 16th. 1871.

Views of Eli H. Price on
the claims of the New
York Indians.

Sold by
John C. Clark & Son,
[illegible] Street,
Philadelphia.

Act of Congress proposed by Clerk Press

Section 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That it shall and may be lawful for the Seneca nation of Indians in the State of New York, and for the Grantees of the State of Massachusetts, of the right of the soil of the territory occupied by said Indians in said State, to agree upon a division of said lands; and in consideration that said Indians shall relinquish and convey all their right of occupancy and every other right and title to the said assigns of the grantees of Massachusetts to the lands allotted to them, they the said latter parties may and shall relinquish grant and convey all and every right title and interest in and to the lands agreed to be taken by them unto Trustees named in behalf of the said Seneca Indians to take and hold title in fee simple in trust for the said Indians; and upon such conveyances being completed and delivered, each of said parties shall cease to have any right title or interest in or to the lands so granted to the other party forever.

Section 2 That it shall be the duty of the said Trustees to hold said lands so to be granted to them for said Seneca Indians, in trust for them, and subject to their use and occupation, and to their own care and management, according to their habits, usages and customs, while in a tribal condition; and so doing shall cease further responsible for the execution of their trust; and said Indians shall continue to have and possess all and singular the exemption from taxation and immunities they now have, and be subject to the like disability of making conveyances and leases of such lands they are now under, or in any wise charging or encumbering the same.

Section 3. It shall be lawful for any man or woman of lawful age, belonging to said Seneca Nation of Indians, desiring to become a citizen of the United States to make application to the Judge of the District Court of the United States for the [illegible] District of New York, and in open Court make the same proof and take the same oath or affirmation of allegiance as is provided by law for the naturalization of aliens, and shall also make proof to said Court that they are sufficiently intelligent and prudent to control their affairs and interests; that they have adopted the habits of civilized life, and have for at least five years previous thereto

been able to support themselves; whereupon they shall be declared by said Court to be citizens of the United States, which declaration shall be entered of record, and a Certificate thereof be given to said party.

Section 4 That said Trustees shall cause one tenth in value of said lands reserved or granted for said Indians, in manner the least to interfere with their future comfort and security, as to which the judgment of the trustees shall be conclusive, to be held in trust by said Trustees for sale in fee simple to such persons as will pay the highest price therefor for objects deemed not injurious, and said Trustees shall convey the same in fee or other estate, under such restrictions as will be protective against occupation for the sale of intoxicating drinks, nuisances and immoral practices; and the purchase moneys thereof shall be invested in bonds and mortgages on the premises sold or within the said Indian settlement, or in the loans of the United States; and the interest and income of said investments shall be applied by said Trustees, on sites suitably chosen in the reservation, for the erection as most needed of places of worship, school houses, poor houses and hospitals for the Indian population; and for defraying the expenses of surveys and other lawful charges.

Section 5. The said Trustees shall cause surveys to be made from time to time of the lands in the reservation, and shall convey in fee absolutely, or upon trust limitations, if deemed by the parties interested advisable, tracts of land unto all such Indians of the Seneca Nation, as shall have become citizens as aforesaid and desire to take up lands, so that they shall hold the same in severalty, and the lands so conveyed shall be held with all the rights, incidents, and liabilities of lands held by other citizens under the laws of the State of New York and of the United States; and in making such conveyances the Trustees shall not grant to any one individual a greater proportion in value than in proportion to the whole population of the Seneca Nation; but shall allow to each who has built and made improvement, the benefit thereof without change, or valuation thereof.

Section 6 The land unconveyed shall be held for the exclusive use of the Seneca Indians who shall not have taken up lands in severalty, so that they and all new comers may receive their allotments on becoming of age; and any surplus lands thereafter, shall be sold in fee, and the proceeds applied justly for the benefit

Suppose the children

population where the individual becomes a citizen or when they act for?

There must be a time fixed for the Trustees to be sworn

What time leaving surplus? Is the surplus belong to those who have not taken lands severally?

of all the Seneca Indians then living, the descendants of those deceased to stand in the place of their ancestors, either by sharing the proceeds, or having the use of charitable institutions or places of worship or education, to which the same may have been applied.

Section 7. Should difficulties occur in the discharge of the duties of said trust, or in the administration of their affairs by said Seneca Indians while any of them shall remain in a tribal association, they may petition Congress for further legislative direction and definition of the duties of the trust, for the more perfectly carrying out the intent of this act.

Section 8 The said Trustees shall be subject to account and be liable for their transactions in the said District Court of the United States, with right of appeal by any party; And they shall file the accounts of their trusts at least once in five years; and when approved the accounts so filed shall be protective of the Trustees as to the transactions therein contained.

Section 9. The said Court shall discharge any trustee on his own petition for inability to serve, or on the petition of the any trustee or parties interested for fraud; and may on the petition of any of the Seneca Indians in the tribal condition, approved by the Continuing Trustees, fill all vacancies in the trust, and the newly appointed trustees, as often as appointed, shall become vested with all and singular the rights and titles, without deeds of conveyance, and be subject to all the duties of the original trustees, along with the continuing trustees.

Prepared and ad of
Carpenter by E. Kelsey

Sold by
John C. Clark & Son,
130 Dock Street,
Philadelphia.

My views are requested in aid of Friends, in their advices to the Seneca Indians. I have brief time allowed me to form and give them.

I am not well informed as to the preparation of the Indians to enter upon modes of Industrial life, and separate ownership of property, according the Custom and laws of the white population. I cannot refuse to believe that they have made or will soon make, under the auspices of Friends, the progress necessary to fit them for civilized life, and for something better than the average of what is called civilized life.

The Indians hold a position in the law of our Country not very pleasant for them to contemplate. The peoples called civilized have acted upon the theory that the earth is meant by the Creator to be occupied by the greatest practicable number of human souls. The two greatest requisites to such a result are these; 1, that mankind should quit the hunter state, and enter upon agricultural and mechanical pursuits; 2. That they should cease to destroy each other in war.

The white people who have made the Constitutions and laws of this Country have so made them as to vest in the original States and the United States the best and legal title to the soil or land; but still subject to the sentiment of humanity that the Indians are to continue occupants until their own consent is given for the relinquishment of their possession. This right of possession is protected by law, so as to prevent the Indians being trespassed upon by white intruders.

Yet the whole system is based upon this underlying expectation, that the Indians will in time yield to the ever-increasing pressure of the white population, either by voluntary relinquishment for money, or by their gradual loss in numbers by death.

When the Seneca Indians shall be ready to sell the persons who were entitled to the right to buy from them were, formerly, Thomas L. Ogden and Joseph Fellows; and the latter as survivor is said to have acquired the whole. (21 Howard's Rep. 369). But the Indians are under the care of the United States Government; and they could make no valid arrangement with the Grantees of Massachusetts who had the right of pre-emption, or those claiming under them, even with the consent of the State of New York, without an act of Congress to authorize or sanction it (See 3 Wall. 407, 5 Wal. 737)

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320 Dock Street,
Philadelphia.

To effect a valid and permanent arrangement to give the Indians a secure and perpetual title to what they shall retain, three parties certainly are necessary; to wit, The Indians; the Grantee of Massachusetts; and the United States. The steps to be taken would seem to me to be these: That the said first and second parties should agree as to what lands they would concede to the Grantee; and as to what lands should be granted in fee to or for the Indians; and then on that basis ask for an act of Congress to sanction the transaction.

At the same time the Indians and their Friends will have to consider of the manner they will take the title to the reserved lands. To attempt to do so as a Tribe would be impracticable; would be a thing unknown to the law; and lead to endless troubles, that would compel some remedy for them.

If the Indians are or can be prepared for it their sweet plan to obtain permanent security of title, and perpetuity of their race, will be to accept citizenship under an act of Congress; to take titles in fee simple to individuals in shares that may be just, with a part of the land held in reserve for the now living minors as they shall arrive at lawful age.

As it will take time to carry out the division, and the Indians have no present capacity to hold titles, until they go through a process of naturalization, it seems to be unavoidable or necessary that the Massachusetts Grantee should convey to Trustees the reserved lands, in trust to grant them to the Indians according to a plan to be agreed upon.

The Indians in such case would have to make up their minds to take upon themselves the duties of citizens, to pay taxes, serve as jurors &c. and to be careful to preserve records of marriages and births, that their lands should descend to their children, without confusion.

It is impossible for me to do more now than to frame a few sections of an act of Congress, without knowing the details of what will be agreed to; and those sections are but vaguely conjectural.

Eli K. Price,

4 Month 4th. 1871.

Opinion

As to Seneca Indians.

To the Yearly Meeting

The Committee for the civilization & improvement of the Indian Natives Report — that the Boarding School at Tunesassa has been continued during the past year under the care of the same Friends who had charge of it at the time of the last report. Owing to various causes the number of pupils in regular attendance has been smaller than during the preceding year. For a considerable part of the year there were as many as 23 in the house at the same time but owing to the sickness of several of the children & their returning home for short periods the average number for the year has not been so. Meetings for Divine worship have been held on First & Fifth days as usual. Patients of the Holy Scriptures are daily read in the family & at other times by the teachers & the religious advantages. The deportment of the pupils has been generally satisfactory & while there has been but little severe indisposition the health of the family has not been so uniformly good as in some former periods. The same course of instruction & management of the children which has been frequently described is still pursued and the progress of the pupils in their school studies has been very much as heretofore reported. The knowledge which the girls acquire of house work and the discipline they are subjected to while resident at the School we believe have a very beneficial effect upon them & fitting them for conducting their own domestic affairs in a manner to promote their own comfort & that of their families. Within two years past four young women who had received instruction at the School have obtained situations in Friends families and have proved useful helpers.

The log tenement on the premises at Tunesassa having become so decayed as not to be worth repairing it was concluded to build a new tenement house which was finished so as to be occupied by the person having charge of the Saw Mill by about the commencement of the year. Some alterations & repairs have been made to the East wing of the main building by which the Kitchen was enlarged & the comfort & convenience of the family increased. Having agreed to assist the Indians residing near Tunesassa in building a School house as alluded to in the report last year (Minutes Vol 4 p 246) they having

4-14-1871

promised to obtain an appropriation of One hundred Dollars towards the materials for its construction, and for its erection. It was also found necessary to permit the opening of the school for four months without a teacher. Previously to the arrangements made for her accommodation, the boarding school for the Summer term of her school commenced on the 1st of July, to be continued 4 months. 24 pupils were registered during the winter term & the daily average attendance was 17, which was larger than that of any other public school on the reservation. The books, stationery & some articles of furniture were furnished by the Superintendent of Public Schools. The Indians have shown considerable interest & satisfaction in the manner in which it has been conducted & would be willing the Committee should control it to any extent they desire. The Indians on the Allegheny reservation have now the advantage of 8 schools capable of accomodating at least 250 children seven of them supported by the State of New York and the Boarding School under the Care of Friends. There are 20 other schools for Indian children in the state. All of the schools are said to have been taught the past year for 32 weeks & attended by 1026 children — the daily average attendance being 531. It is gratifying to be informed that 9 of these schools were taught by Indians who are represented to have proved competent & succeeded well. The local superintendents of the schools & their teachers state that there is an increasing interest in education on the part of both parents & pupils & an improvement in punctual & regular attendance by the latter. The cost to the State of New York in supporting these schools during last year was $7803 & considering that the Indians pay no taxes this large expenditure shows a common debt liberality on the part of its authorities.

The Indians have of late appropriated funds out of their national treasury for the erection of several school houses thus giving additional proof of their appreciation of the value of school instruction. The interest which they now feel in this subject is decided evidence of advancement as within comparatively a few years much opposition was shown to the establishment of schools among them.

The descendants of Sam Plantes a noted Indian Chief who died in 1836 without civilized, occupy a tract of land containing about 783 acres, situated in Wauneka Pun. This tract was presented to him by the State in 1791 for services rendered prior to that date. The land is held in fee & is subject to the intestate laws of Penn. For various reasons it has been the judgment of the Committee as well as others interested in their welfare that they should divide it according to their respective rights and thus have an incentive to industry & thrift which exclusive [illegible] funds [illegible] clear understanding and [illegible] to satisfy judgment & [illegible] of a division on the [illegible] of their respective rights to make partition. [illegible] in behalf of the [illegible] of the land [illegible] legislation [illegible] the chiefs or [illegible] of [illegible]

judicial sale except to descendants of the Planter or to members of the Seneca Nation of Indians. The Committee having advised the Council represented the circumstances of the case in a memorial to the Legislature & asked the enactment of a law containing the above provision which was kindly prepared by a prominent member of the bar in this City. The bill has passed the House of Representatives without amendment & there is no reason to believe the concurrence of the Senate will be withheld when it comes up for consideration in that body.

By a recent decision of the Supreme Court of New York the Indians have been declared to have no legal right to lease their land. In consequence of this decision the white people who occupy lots leased by the Seneca Nation especially those residing at Salamanca have made considerable effort to procure some legislation from Congress to enable them to acquire title to the whole or a part of the Allegheny reservation. The legislature of New York so far gave countenance to their efforts as to adopt resolutions requesting their Senators & Representatives in Congress to endeavour to procure such action by that body as will afford them the desired right. ~~Notwithstanding~~ These resolutions were presented & referred to the Indian Committees of both houses, but no measure has been adopted. It is however quite probable that another attempt will be made to accomplish the object the white settlers have in view and it may be expected that sooner or later they will be successful. The Indians are much agitated in reference to this renewed effort to obtain possession of their land & until it is ascertained that the attempt will not succeed much unsettlement & anxiety will no doubt be experienced. At a Council of the Seneca Nation convened to consider this subject [illegible] & forwarded to the Committee requesting their

"Old Tried friends the Senators to Reef Waters & see that no legislation be had at Washington that will take from us our territory or prejudice our rights & that they be requested to protect our interests so far as it may be in their power. The subject has been referred to a special Committee and bills [illegible] will be amended as the circumstances may require.

The Treaty we provided by authority of the Commissioner of Indian Affairs in 1862 with the New York Indians for the settlement of their claims for land in Kansas has not yet been ratified by the Senate. The unfavorable report and bill you have been referred back by that body to the Committee on Indian Affairs which we have to hope that a reconsideration of the subject may result in a recognition of the claim & an ultimate settlement of it by the government.

While there ought to be no ground of discouragement in the fore-[illegible] for people we have evidence [illegible] highly value the advice & friendship, and are desirous that [illegible] Indian Council held in [illegible] this feeling was very [illegible] that Friends [illegible] difficulty or danger [illegible] fears that [illegible]

for the new School house $412 75 — for repairs & alterations $276 57
Invested in Philad^a 6 per ct loan 507 50 and all the debts due by the Committee except about $40 have been paid leaving in the hands of the Treasurer 3^d mo 1 a balance of $556 9. There are securities on hand the par value of which is 15236 66 an increase of $500 since last report.

The present Superintendent of the Boarding School and his daughter continue desirous of being released & are only waiting the appointment of their successors. A woman Friend to act as Teacher is also needed. It would be encouraging to the Committee to receive early applications from Friends who may feel drawn to aid in this useful work in either of these stations.

Signed on behalf & by direction of the Committee.

Report 1871

Report on Coloured Schools
Read & filed 4th Month 1871

Republi

BEST PAPER IN THE COUNTY. TERMS: $2.0

CARAUGUS COUNTY, NEW YORK, THURSDAY, MAY 18, 1871.

Selected Poetry.

Evermore.

I beheld a golden portal in the visions of my slumber,
And through it streamed the radiance of a never-setting day;
While angels tall and beautiful, and countless without number,
Were giving gladsome greeting to all who came that way.
And the gates forever swinging, made no grating, no harsh ringing,
Melodious as the singing of one that we adore;
And I heard a chorus swelling, grand beyond a mortal's telling,
And the burden of that chorus was Hope's glad word—Evermore?

As I gazed and listened, came a slave all worn and weary,
His fetter-links blood-crusted, his dark brow clammy damp,
His sunken eyes gleamed vividly, telling tales of horror dreary,
Of toilsome struggling through the night amid the fever swamp;
Ere the eye had time to [illegible], ere the mind had time for thinking,
A bright angel raised the sinking wretch, and off his fetters tore;
Then I heard the chorus swelling, grand beyond a mortal's telling:
"Pass, brother, through our portal, thou'rt a freeman evermore!"

And as I gazed and listened, came a mother wildly weeping—
"I have lost my hopes forever, one by one they went away;
My children and their father the cold grave hath in its keeping,
Life is one long lamentation, I know not night nor day!"
Then the angel softly speaking: "Stay, sister, stay thy shrieking,
Thou shalt find those thou art seeking beyond that golden door!"
Then I heard the chorus swelling, grand beyond a mortal's telling:
"Thy children and their father shall be with thee evermore!"

And as I gazed and listened, came one whom desolation
Had driven like a helmless bark from infancy's bright land;
Who never had met a kindly look—poor outcast of creation—
Who never heard a kindly word, nor grasped a kindly hand.
"Enter in, no longer fear thee; myriad friends are there to cheer thee;
Friends always to be near thee, there no sorrow and and sore!"
Then I heard the chorus swelling, grand beyond a mortal's telling:
"Enter, brother, thine are friendship, love and gladness evermore!"

As I gazed and listened, came a cold, blue-footed maiden,
With cheeks of ashen whiteness, eyes filled with lurid light;
Her body bent with sickness, her lone heart heavy laden;
Her home had been the roofless street, her day had been the night.
First wept the angel sadly, then smiled the angel gladly,
And caught the maiden madly rushing from the golden door;
Then I heard the chorus swelling, grand beyond a mortal's telling:
"Enter, sister, thou art pure, and thou art sinless evermore!"

I saw the toiler enter to rest for aye from labor;
The weary hearted exile there found his native land;
The beggar there could greet the king as an equal and a neighbor;
The crown had left that kingly brow, the staff the beggar's hand.
And the gate forever swinging, made no grating, no harsh ringing,
Melodious as the singing of one that we adore;
And the chorus still was swelling, grand beyond a mortal's telling,
While the vision faded from me with the grand word—"Evermore!"

—EDINBURGH GUARDIAN.

WESTERN NOTES.

NAPOLI, May 4th, 1871.

Editor of the Cattaraugus Republican.

Upon again complying with your request to write you, I am truly happy to be able to date my letter at Napoli instead of Frankfort, Kansas. Not that I love Kansas *less* but that I love N. Y. *more*. People often ask me if I think they had better sell out here and go to Kansas. In reply to such inquiries, I will here say, if you would like to live in a new country, upon the borders of civilization almost, go to Kansas or Nebraska. You will find a pleasanter climate, more sunshine and less rainy days, grain and stock raising as well as dairy farming, and a soil that will produce almost anything that can be grown in the Union, North or South. On the other hand, housekeepers find it difficult to keep their houses clean on account of the fineness of the dust in dry weather, and stickiness of the mud in wet. The days without wind are an exception. So much is there that many people question if bees can be kept with profit in Kansas. Sultry nights are unknown, and musquitoes scarce.

To one in Kansas, N. Y. seems a long way off, and as the Swiss from the snow-clad Alps, or the Scotchman from the barren Highlands still cherishes a love for his former home, so the wanderer from any of the Eastern States, in search of a home beyond the Mississippi, will find his greatest trouble arises from that worst of ailments—*homesickness*.

Found Winter wheat looking better in Kansas and Missouri, than in Central Illinois, and I judge about three weeks ahead of the same crop in the wheat region of this State.

Having occasion to stop for Quarts rocks upon Mc Gees Creek, Brown Co., Kan., I was surprised to find people clearing farms just as they used to in Western N. Y.—by rolling the logs together and burning them. Did not before suppose any section of Illinois could boast so much timber. Where timber is so plenty the people much prefer the rail fence to the osage hedge, because they can work the ground much nearer it, and the osage require so much care to keep it out down and thrifty. Where timber is scarce, however, people are obliged to use the osage.

Should any of your readers have a taste for, and enjoy looking at the curious and beautiful; and if they should ever visit Leavenworth, Mo., I can assure them they will be richly paid for their trouble, if they ride out 1½ miles Northwest from town, to see one of the finest collections in the U. S., belonging to Mr. John Fry. They will find him a model old gentleman, and very willing to show the cabinet he has been thirty years in gathering. Among other things they may see shells from the tiniest collected to that of the sea-turtle, and the rarest and finest beauties of the Pacific and Indian Oceans. Rare corals from distant seas, and large quantities of different species of the same, polished, and found in Kansas. Of Geological and Mineralogical specimens he has a large collection, many of them very valuable. In exchanges with collectors, he is liberal, as I can testify from experience.

In Will and Bureau Counties, Ill., I visited many Cattaraugus Co. people, and many other old friends. Both, with whom I met people in these parts, were formerly from Western N. Y. [illegible] I think about ten years ago, I met with one of the old Cattaraugus people, who was formerly a resident of Ashford. He was then in business in Ashford, and I was then a boy. Guess he didn't think of me, though, for he did not know me. Guess I have changed some since then. Anyway, I was not long in making myself known to him, and we had a long talk about old times and old friends. Time passed too rapidly for us to think of the lapse of years since we had met before. Time will not permit me to write more at present. Perhaps, if I should write again, I will give some more Western Notes.

M.

Miscellaneous Reading.

Success in Life.

The great secret of success in life consists in bending all your efforts to whatever you happen to engage in. Don't let your fickleness lead you to slight your present occupation, and think lightly of it, hoping something better will turn up by-and-by. The way to get along in the world is to make every step one that is ahead, and each to follow its predecessor. For full fifty per cent of the effort of the world is absolutely wasted in indirect, diffuse, indefinite labors. Young men start out in life without purpose or point, casting a thought neither on their fitness or aptitness for a particular calling; now doing this thing, then that, and after that nothing; one day going on, another on the right (which is wrong) or left, the next backward, and then not going on at all, which is perhaps as bad as the whole combined. The right line in life is the one which leads straight ahead. This almost always secures success. If you are creeping, do it energetically until you can get on your feet to walk; but never try to do both at once. And when once on your feet, never get on your hands and knees again; but strain all your efforts to your new life.

THE GALLANT RIGHT.—A clergyman in Corry a short time ago, was called upon one evening to go several miles into the country, to solemnize a marriage between a young man scarcely past twenty and a lady who was elderly enough in appearance to be his mother. A large company of ladies and gentlemen were assembled, all strangers to our ministerial friend. When proceeding with the ceremony, he propounded the question: "If any person has any objection to the joining of these parties in marriage, they will now make it known, or hereafter forever hold their peace." The minister waited a moment to see if any objection was made, when the bride's father, in a loud voice, exclaimed: "[illegible] the girls [illegible]!" The reverend [illegible] ing worse than ever. "You passed this one dollar counterfeit bill to my clerk, and you must come back till I get a policeman. Oh! you needn't try to look so innocent. I spectioned you when I saw you coming around to my store to get such a little jag of flour as that. Watched yo to see ye didn't steal nothin'. You see you can't fool an old hand like me."

Here was a turn in affairs that would astonish old Girard himself. I tried to explain. Assured him that I supposed the note was genuine. He was incredulous for a time, and was disposed to have me locked up and the wheelbarrow detained as a witness, but finally let me off on my redeeming the note.

The wheelbarrow business is all a humbug. A man can't make a character in any such way. And the chances are that he will lose what little he starts out with.

Rulers Who are on the Make.

The avaricious disposition of Queen Victoria, and the enormous amount of money taken from the country treasury for the support of her family and relations, are among the principal causes of her present unpopularity. It costs the British people over three millions of dollars a year to support the royal family; and yet, ever since the death of Prince Albert, the Queen has avoided the usual expenditures of her station, much to the disgust of the London tradesmen and the English people generally. She inherited over five millions of dollars from Prince Albert, who possessed an income of about a thousand dollars a year when she married him. She has also received several bequests of large sums of money from wealthy people ambitious to connect their names in some way with royalty. One of these, a man named Neeld, bequeathed to the queen a million and a half of dollars, which he pocketed, although it was shown that the kindred of this person were in a very needy condition. The belief is becoming prevalent that in England the monarchy will be abolished when Victoria dies; and if such should prove to be the case, there can be no doubt that her grasping conduct in money matters will have contributed largely to such a result.

In this we may see the superiority of American institutions over those of Great Britain; for if we should ever be so unfortunate as to have a President who should prove himself greedy for gain, it would not be his high office, but himself, that would be repudiated by the people at the end of his term.

BEECHER ON CONFESSING SINS.—If a man sins I think he ought to confess it, but it is not expedient to tell all our sins openly. Nothing is more disagreeable to me than to hear of a man's ailments. If a person has a sore, I don't want to hear about it. I don't care to be regaled with the statement of a man's stomach or liver. I have ills enough of my own. Yet some people will get together and croon and croon, and talk about others sicknesses, and about corpses, and how many they have laid out, and have a regular graveyard banquet. It is the same with spiritual ailments. There are times when men should make confession of specific sins. If a man has been carrying on the liquor business, and is converted, it is quite proper that he should confess that he has been doing the devil's work. If he has been engaged in any wickedness that has been open to the whole community, his repentance should be open. It is not necessary to give an inventory of all one's faults. [illegible] say anything it is better to be [illegible]—Eastern Union Gulf.

The Fat Contributor's Failure.

"It is related of Girard that when a young tradesman having bought of him and paid for a bag of coffee, proceeded to wheel it home himself, the shrewd old merchant offered to trust his customer for as many bags as he might desire. The trait of character revealed by the young man in being his own porter, had given the millionaire confidence in him at once. His reputation was made with Girard. He became a favored dealer with the enterprising merchant, throve rapidly, and in the end made a fortune."—*Exchange.*

That sort of thing might have worked well enough with old Girard, but it don't fool anybody now. I have tried it. I bought half a pound of tea at Pendorry's the other day, after reading the above paragraph, and wheeled it home in the most ostentatious manner, to see if Pendarry, who was looking on, wouldn't offer to trust me for all the tea that I wanted, but he didn't. On the contrary I heard him speak sharply to one of his clerks as I went around the corner, asking him if "that tea was paid for?"

I afterward took a wheelbarrow and went to a flour store on Central Avenue. Bought a small bag of flour, twenty-five pounds, I think, and loaded it on. The head of the concern looking at me with apparent interest.

"Now," I thought, "is my opportunity. This is a Girard feller. He will tell me to come and get all the flour that I can wheel away, and pay when I get ready. Perhaps he will offer me a partnership in his store."

Then I spit on my hands and whipped them over my shoulder to encourage a vigorous circulation, rubbed them together smartly, and clutching the handles of the barrow started off at a brisk trot. I had proceeded about a square when I heard some one shouting after me. Looked around and saw the flour man coming on a dead run.

"Ha, ha!" thought I, "the thing works admirably. The example of Steve Girard is not lost. I have revealed a trait of character in being my own porter, to say nothing of my beer, and my fortune is made. The flour and feed man recognizes my merits, and comes to offer me partnership."

As he approached I saw he had some money in his hand. "He is at least," I said, "going to return me my money." There was a severe look on his face as he came up to me, which did not accord at all with what I had pictured Girard's countenance to have worn when he gave the carte blanche for coffee.

While reflecting that it might be "his way," he said: "Sir, I want you to go right back to my store."

"It is coming now," though I did not quite like his tone. "Wheelbarrows are about to receive their reward. He is going to offer me a partnership; perhaps to turn over his entire business to me." I was consequently elated.

Then I said to the flour and feed man, (just as though I didn't know you know, the clever things he meant to do for me) "May I inquire for what purpose sir?"

ISCELLANEOUS, BOX 6, 1852-1871

SENATOR SCOTT'S SPEECH.

We publish this week Senator Scott's speech on the Indian Tax question, in which the people of this and Erie Counties have so great an interest. As will be seen by a perusal of the speech, the Supply Bill authorized the Governor to appoint a Commission to examine the question and report a plan of adjudication to the next Legislature. Mr. Scott moved to strike this clause out of the Supply Bill, but his motion was lost by a party vote. He then moved as an amendment, that the Secretary of State, Comptroller, Attorney-General, Chairman of the Board of Supervisors of Cattaraugus County, and the Attorney for the Erie County Board of Supervisors, compose that Commission, instead of leaving it to the Governor to appoint.

Mr. Scott's speech gives a very complete history of the Indian Tax question, from the beginning, and will be read with interest by every tax payer in this County. The injustice of calling upon this County for any part of the Indian taxes is fully shown, and the Senate could not easily do less than to accept his amendment. Mr. Scott's action in this matter entitles him to the thanks of his constituents, and we feel sure that he will receive them.

The Commission is made up of fair men, and their report to the next Legislature we hope will effectually and finally dispose of this question, which without any justice or merit, has threatened to entail upon this and Erie Counties, crushing and ruinous taxes.

Dr. Gray, of Utica, and Dr. Vanderpoel, of Albany, who were appointed by Gov. Hoffman to examine Rulloff and decide upon his sanity, made their examination last week, and pronounce him to be in sound physical health, and entirely sane.

Gov. Hoffman has refused to commute Rulloff's sentence, and he will be hung to-day, (Thursday) at Binghamton. Rulloff received the news of the Governor's decision very coolly, but denounced Hoffman for not giving him time to finish his new work on the origin of language.

The Mace-Coburn prize-fight came to an inglorious termination. The fight took place near Port Dover, Canada. After it continued an hour and twenty minutes without a blow being struck on either side, the Canadian authorities, backed by a squad of soldiers, interfered, and stopped the fight.

The fight has been postponed until June 2d, at Kansas city. Coburn is said to have shown great cowardice at the late encounter, and it is not probable that he will meet Mace at that time.

SPEECH OF SENATOR SCOTT.—We publish on the first page the speech of Senator Scott of the Cattaraugus district on the questions pertaining to the taxation of the Indian Reservations. It is a subject deeply affecting the interests of his constituents, and in this matter, as in others, he has proved himself an able and faithful representative. His speech is a clear review of the question from the beginning, and his arguments and labors were rewarded with a success which the people of his district will fully appreciate.—*Albany Evening Journal.*

1871

[illegible] same lands in that county under the law of 1811, for highway purposes, about one hundred and fifty dollars, and for town and county expenses about one thousand dollars.

The taxes levied upon these assessments were not paid, and the lands were regularly returned to the Comptroller for the non payment of taxes, and credits were given to the respective counties on such returns for the amount of the taxes returned; the moneys thus realized were done so in each county to the purposes limited in the several assessments.

In 1847 the Comptroller advertised the lands for sale, whereupon Joseph Fellows, one of the owners of the pre emption, commenced an action in the Supreme Court against Millard Fillmore, the then Comptroller, praying that the assessment of the taxes upon these lands might be declared invalid, and that the Comptroller might be enjoined from selling the same.

The action was tried before the late Judge Wright, then of the Supreme Court, in the year 1850, and was decided in favor of the Comptroller, and judgement was entered thereto in the county of Albany, in June of that year. This judgment held the assessment valid.

After the entering of this judgment the Supervisors of Cattaraugus county through their counsel, notified Judge Sanford E. Church, the then Comptroller, that the county of Cattaraugus was largely interested in the questions involved in that judgment, and if any appeal should be taken therefrom they desired that notice should be given to them or to the treasurer of that county, to the end that they might be heard in defence of that interest. No appeal was taken from that judgment, and it remained and still remains in full force and effect.

When the injunction was thus removed the Comptroller sold the lands, and they were bid in by the State for the amount of the taxes and expenses.

In 1851, Mr. Danulson, the then Comptroller, without notice to either of the counties of Cattaraugus or Erie, acting in conjunction with Mr. Thomas W. Olcott, to whom the State had assigned the certificate of sale, agreed upon a case with Mr. Fellows, and submitted the case again to the General Term of the Supreme Court. Upon the case the Supreme Court gave judgment against Mr. Fellows, and held the assessments and taxes valid. Mr. Fellows appealed to the Court of Appeals from that judgment and on the argument in that court Mr. Fellows and Mr. Olcott appeared by counsel and argued the case, but the Comptroller was not represented and no argument was made in his behalf. Neither of the counties had notice of this proceeding.

The counsel for Mr. Olcott expressly admitted, in his printed points that the assessments were invalid. The Court decided, among other things, that the pre emption was a proper subject of taxation; that the Indian title was not a proper subject of taxation, that the taxes imposed under the act of 1841, which exempted the Indian title, were valid; that the taxes levied under the act of 1840, which did not protect the Indian title in terms, were invalid; that the Legislature had a right to provide for the taxation of the pre emption of those lands, and that, as the sale was entire upon legal and illegal taxes, was void.

The law, as thus established by the Court of last resort of this state, left the taxes as levied under the act of 1841 in full force, and vindicated the power of the Legislature to subject the pre emption title of these lands to taxation to the same extent and in the same manner as other lands.

The Comptroller charged the whole amount of those taxes to the account of the respective counties, and returned them as taxes once admitted and afterwards rejected.

The subject was again brought before the Legislature for its action in the year 1851, and the Legislature of that year in Chapter 81 of the laws required the Comptroller to advertise and sell the lands upon the taxes levied under the act of 1841, and to credit the counties respectively with the amount of said taxes and the accumulated interest thereon, and the expenses of the former sale, and provided that "no part of such taxes shall again be charged to either of said counties or to any town therein."

In the same act the legislature required the Comptroller to certify to the said counties respectively the amount of the taxes levied upon each tax district in the same manner as under the said act of 1841, with the accumulated interest thereon, and empowered the supervisors of the respective counties upon such certificate to levy the amount of said taxes and interest upon the same lands, and to collect and return the same, and if so collected to pay the same into the treasury of the State. The act also provided that upon giving such certificate the Comptroller should credit the counties respectively with the amounts of the certificates "and that no part of such taxes or interest shall again be charged to either of said counties or any town therein, except for the omission or neglect of the officers of such counties or towns to levy and return such taxes" as therein provided.

This act in terms protected the Indian title.

The town and county officers fully complied with the provisions of this act, and on the assumption that the pre emption was a proper subject of taxation, the power of the Legislature to thus dispose of the matter was not, and cannot be questioned.

These taxes were not levied for the benefit of the counties, but for the benefit of the Indian lands and ultimately for the benefit of the owners of the pre emption.

The defects and irregularities which rendered the first sale and a portion of the taxes invalid was a fault of the Legislature in the enactment of the law itself, and not of the local authorities in its [illegible] control over the re[illegible] in the premises, and [illegible] participation of the counties in that litigation, and that too, after notice to its fiscal officers, that the county of Cattaraugus was largely interested and desired and desired to be heard in defense of its interests.

The consideration of these facts induced the Legislature of 1851 to assume the result of that litigation, to provide for the contingency and to declare in emphatic terms that the counties should not again be called upon for any portion of these taxes if they were faithful in the execution of the provisions of that act.

The owners of the pre emption brought error upon so much of the judgment of the Court of Appeals as adjudged the pre emption liable to taxation to the Supreme Court of the United States, and that court held that the pre emption was not liable to taxation.

The litigation and decision upon the writ of error were had after the enactment of 1851. The State assumed the control of that litigation, and gave no notice of it to either of the counties.

This item for the appointment of Commissioners by the Governor, introduced into this general bill, and presented for the consideration of the Senate in the last hours of the session, seeks to again open the question of responsibility between the counties and the State.

Between individuals in the ordinary business transactions of life, a person ultimately liable for any amount, whether great or small, who has been denied notice of the proceedings in Court which affect his interests, whether intentionally or negligently, would be fully absolved and discharged from that ultimate liability, and especially would that be so where the party to whom he was thus ultimately liable, had canceled his own liability growing out of such want of notice, and expressly stipulated that such party should not be in future be held to liability in the premises.

If such a rule is applied to individuals, who are equals, it ought, with stronger reason and with greater force, to be applied to the State, which, by the action of its highest officers, and by its most solemn legislative enactments, has assumed control of questions affecting the interests of municipal corporations which are its creatures and are subject to the exercise of its sovereign power.

Now, Mr. President, I have thus fully stated the history of this matter, that Senators may be enabled to see how important it is to the tax payers of one of the counties which I have the honor to represent. The amount of the taxes thus assessed upon these lands in the County of Cattaraugus, with the accumulated interest and expenses, is today not far from one hundred thousand dollars, a burden which would fall heavily upon any county in the State, and crushingly upon one so new and so far removed from the centers of wealth.

On the surface this appears to be a question between the State and counties of Erie and Cattaraugus; a question which, between these parties, was definitely and, as was believed by the people of those counties, finally settled by the acts of the State officers and the Legislature of 1851. But, I believe, that the State is not the primary mover in this attempt to open that controversy. Negotiations are contemplated by the owners of the pre emption, or are now actually in progress, for the [illegible] of the Indians from these reservations, [illegible] relinquishment of their right of occupancy.

These owners entertain a fear—perhaps not entirely groundless—that when the Indian shall have gone towards the setting sun, and the objection upon which the judgment of the Supreme Court of the United States was predicated, shall have been removed, the State may be justice to its tax payers to impose the burden of these taxes upon the lands which were preserved by their expenditure, enriched by the general taxes of the State, which have protected them so long, while they bore no part of the burdens of the state, and which ought in justice and equity to contribute to their support.

These agents and attorneys of those owners at this session of the last, have appealed to members of the Legislature for legislation upon this question. [illegible] bill, with a view of getting a compromise, [illegible] these taxes, or a portion at least, [illegible] be imposed upon the tax payers of the counties of Cattaraugus and Erie, in the hope that, [illegible] the State, [illegible] power of the State [illegible] to cast the burden of these taxes, which it belongs, upon the [illegible] as both the clerk, was present [illegible] for the [illegible] and it was [illegible] that it [illegible] by way of [illegible] the town, the town [illegible] at its last session [illegible] a question of [illegible] no little opportunity [illegible] the Iron Works [illegible] by the clerk [illegible] being re[illegible] upon the [illegible] of the [illegible] I [illegible] and [illegible] of the [illegible] in the action, and while I am convinced that the appointment of this commission is inevitable, I am not willing that it should be so made up that the interests of my constituents may, by any possibility, be sacrificed, or even passed upon without notice to them, or without having a voice in its consideration.

I do not question nor doubt the fairness or impartiality of the executive in making up this commission if the appointment shall be left to him. While I have been a member of this body he has ever given me all that kind consideration that any Senator might expect, or that I would have the right to expect from any Governor, but in a matter which so closely comes home to my constituents, I regard it my duty to participate in their name and on their behalf in the composition of that commission and to settle that question here and now.

My amendment proposes to so arrange the commission that the interest of the State will in every event be fully protected. To that end I have named the Comptroller on whose suggestion the measure was introduced, and who is competent to look to the financial interests of the State, the Secretary of State and the Attorney General, alike able lawyers, accomplished gentlemen, and faithful public servants, and the Chairman of the Board of Supervisors of the County of Cattaraugus, and the Counsel of the Board of Supervisors of the County of Erie, gentlemen who understand the interests of their counties, and will be able to fairly present them.

If the Senate agree to this amendment it will to some extent remove my objection to the measure, and I sincerely hope that a proposition, which so fully protects the interests of all, and is in itself so just and so equitable, will meet the approbation of Senators.

Upon the vote being taken, the following Senators voted for the amendment:

Bowen, Bunn, Burke, Elwell, Chapman, Minor, Kennedy, Lewis, Parker, Thayer, Tweed, Winslow, Scott, Wood and Woolin—15

In the negative—Frost, Murphy, M. Norton, Caldwell, Creamer, Graham, C. F. Norton, Morgan, Sanford, Bradly, Pierce, Lord, Hardenburgh and Hubbard—14.

And the amendment was declared adopted.

New York Wholesale Country Produce Market.

Reported weekly for the CATTARAUGUS REPUBLICAN, by Dwell Lewis, Commission Merchant, No. 63 Pearl street, for the week ending May 13th, 1871.

Commission on Butter, Eggs, Poultry, etc., is per cent.; Flour, Grain, etc., 2½ per cent.

BUTTER.—Receipts for the week were 13,457 packages. There has been less Western butter arrived than was expected. Prices are a little lower, but position of the market much the same as last week. We submit the following review of last year's market: New butter started last half of March at 35@37 cts., fell off about first of April to 31@32@31 cts., kept these figures with slight variations to middle of May, when the market went on to Grass make of Orange County at 35@40, State at 33@35 and Western Reserve at 30@33 cts. On 20th May, Orange County was down to 30@35 cts., and Western Reserve to 28@31 cts., and the next week again down to 25@30 cts., and best Western Reserve 24@31 cts., at which prices the market was very steadily carried to the last of June and first of July, when Western butter beginning to come of less desirable quality, the finer grades of State Creameries and Orange County rallied and advanced to 31@35 cts. Through July there were light receipts, and a serious drought through State Dairy Districts, and in the last days of that month prices advanced to 35@40 cts. for fine Creameries and pails, followed in middle of August by a further advance to 40@45 cts., and the middle of September to 45@50 cts., this being the highest point and best time to let butter go during the whole year. These fancy prices for finest butter were nominally maintained through to the last of October, enough being sold at these rates to warrant quotations, although ordinary and common stock, especially after first week in October, became a drug, and failed to attract buyers even at very low prices. After first of November prices dropped to 45 cts. for choicest selections, and say 40@42 cts. for prime parcels of fall make, and 40 cts for prime dairies; poor butter not being called for. In December holders of dairies that had not found buyers, became restless, and the market took a wide range; some State dairies being sold at 21 22 23 25 cts., while others brought 5@10 cts. more, and some could not be sold at any price. In January finest goods were a little sharper, and it seemed to look brighter, and through February the English Export movement of several thousand packages State and Western at 16@17 cts. encouraged the belief that the stock would go out clean. This however did not turn out to be the case, the troubles in the mining districts and consequent failures among manufactorks, cut off the immense demand from the consumers, and thousands of packages of fanciful kind of stock being left without a market, had to be closed out at a loss, and the anomaly was presented of a problem brought through the Boards of Trade, and yet thousands of packages were surplus butter at the end of the season. We quote:

Orange County quality (trade mark)	30@33
Choice Butter from half factory districts	30@31
Choice butter from Northern dairy districts	28@30
White Hay Butter or poor Dry and Grass	20@23
Choice Grass make Yellow Western Butter	27@29
Western butter	13@23
Grease	10@11

CHEESE.—Receipts for the week were 6,104 boxes. Exports for the week were 10,032 boxes. The stock of Fine Old Cheese is very light, and such are in good demand to home trade at a slight advance in price. Common stock is plenty, and holders anxious to sell. Prices are nominal. New cheese are arriving more freely, and meet a hard market. We quote:

Fancy Late Made Cheese, O.d	14@15½
Fancy well cured new make	13@14
Old Cheese	6@12

EGGS.—There has been good active demand all this week, and prices are a shade cent per doz. higher. Our quotations are for lots in good order. We quote:

State and Pennsylvania per doz	18cts
Western per doz	15½@17
Southern	14@16
Oats	30 cts

POTATOES.—Good lots are in demand, and firm. Poor kinds are hard to sell. We quote:

Jackson White	$ 00@3 25
Goodrich	2 50@2 75
Byright	2 50@2 75
Peach Blows White	3 25@3 75
" " Red	3 25@3 75
Dykeman	2 50@2 75
Chili Red	2 50@2 75

ONIONS are about out of market

MAPLE SUGAR is very dull at 13@16 cts.

Little Valley Butter Market.

LITTLE VALLEY, May 17.

108 packages were received at 20@25 cts

NEW ADVERTISEMENTS.

Notice is Hereby Given,

that

GEORGE HILSLE

has filled up his store with a complete lot of

Woolen and Cotton Cloths,

of all kinds, also

CLOTHING,

Hats, Caps, Yankee Notions,

and a full assortment of

GENTS' FURNISHING GOODS.

The best brands of

Teas, Coffee, Sugars,

and a general stock of

GROCERIES,

constantly on hand at prices as Low as the Lowest.

GEO. HILSLE.

Ladies, Attention!

THE DASHAWAY WASHER saves Time, Saves Labor, Saves Clothes, will save Clothes to the amount of its cost in one year. No household complete without it.

Acknowledged by all to be the BEST.

The Dashaway with a other Washing Machines is liked better and better the longer it is used.

A child 10 years old can [illegible]

For Machine of Territory address

J. N. [illegible] MELENCE,

Randolph, N. Y.

Corning 5th mo 27. 1871

Copy of letter to Jos Fellows Esq at Corning

Respected Friend
Joseph Fellows

The undersigned members of the Society of Friends & of a committee of that body who have long had been interested in the Indians in New York State, called at thy house this afternoon on their return from a visit to the Indians though unfortunately thou was not home & we did not feel at liberty to call again to ascertain whether thou continues to be the Trustee of the Ogden Land Co. & if so whether thou art authorized to negociate for the extinguishment of the pre-emption right to the Indian Reservations & what that Company's views are in reference to the value of it.

If that right can be extinguished on reasonable terms we will be disposed to advise the Indians to endeavour to have it done. Will thou oblige us by giving us the above information & in case thou art not at present the authorized agent of the Company please say who is. We should be willing

If thou intends [illegible]

~~[illegible]~~

to confer with any party* who may be authorized to negociate for the sale of said rights if they wish it in order to obtain a definition of the Company to lay before the board

An early reply to this will oblige us and may be addressed to

Joseph S Cullingford 413 Spruce St
Philadelphia

We are respectfully thy friends

Thos Wistar
Joseph S Cullingford

* Will meet them if they wish it either in this city or on other convenient place

1872

Reasons why the Government of the United States should recognise and respect the claim of the so called Six Nations of New York Indians for compensation for their land in the State of Kansas - for that in the State of Wisconsin.

1st On the discovery of this Continent the Europeans were eager to appropriate so much of it as they could acquire. While they respected the right of the Natives, as occupants, they asserted the ultimate right to be in themselves. As a consequence the Indians, the natives, had only the usufruct title - The ultimate fee was in the State. In accordance with that principle grants were made by Great Britian to its Colonies in America. By the treaty which concluded the war of our revolution, Great Britian relinquished all claim, not only to the government, but to the "propriety and territorial "rights of the United States". By this treaty the powers of government and the right to soil, which had previously been in Great Britian passed definitely to the States (United States Statutes at Large vol. 7. pages 1 to 11.)

By virtue of various letters patent granted by England prior to the commencement of the revolutionary War - the State of Massachusetts

claimed certain lands situate within the limits of the State of New York. This claim was adjusted by deed of convention between the two States entered into on 16. December 1786 - by which Massachusetts ceded to New York the government sovereignty and jurisdiction of all the lands situate within the present limits of the latter State, and New York, ceded, granted, and released to Massachusetts, their grantee and the heirs and assigns of such grantee, forever, the right of pre-emption of the soil from the native Indians, and all other the estate, right, title, and property of and in two tracts of land, &c &c. It was also stipulated that Massachusetts might sell and dispose of the right of pre-emption to the whole or any part of the said lands, and that the grantees should have good right to extinguish, by purchase, the claims of the native Indians; but it was provided that no purchase from the native Indians, by such grantee, should be valid, unless made in the presence of, and approved by, a superintendent, to be appointed for that purpose by the Commonwealth of Massachusetts.

On 19. April 1795. Massachusetts, pursuant to a resolve of Congress of 10 October 1780, released to the United States all the lands included in their original grants which lay west of the western limits of the State of New York.

The Seneca Indians, one of the tribes of the

Six Nations, claimed at the time of the convention between New York and Massachusetts 16. Dec. 1786 – exclusively the native right to the lands where of the pre-emption was ceded to Massachusetts. The Mohawks having removed to Canada and the lands occupied by the Onondago, Oneida, Cayuga, and other tribes of the six Nations not being included in the cession, the right of preemption, as to the lands of these latter designated tribes, remained in the State of New York.

Subsequently to this convention, and prior to the year 1794. Massachusetts sold and conveyed the pre-emptive right, and all other their right, title, and interest in these ceded lands to different individuals –, who have since, in like manner, sold and conveyed to others.

The treaty between the United States and the Six Nations concluded, Nov 11. 1794 – (see U.S. Statutes at Large Vol. 7. page 44) contains the following clause:

" article 2. The United States acknowledge the lands
" reserved to the Oneida, Onondago, and Cayuga
" Nations, in their respective treaties with the State of
" New York, to be their property: and the United States
" will never claim the same, nor disturb them, or either
" of the Six Nations, nor their Indian friends residing
" thereon and united with them in the free use and
" enjoyment thereof, but the said reservations shall

"remain theirs until they choose to sell the same to "the people of the United States, who have the right to "purchase."

The third article of that treaty after specifying the boundaries of the lands of the Seneca Indians contains the following stipulation: "Now the United "States acknowledge all the land within the above "mentioned boundaries to be the property of the Seneca "Nation, and the United States will never claim the "same, nor disturb the Seneca Nation, nor any of the "Six Nations, or of their Indian friends residing "thereon and united with them, in the free use and "enjoyment thereof, but it shall remain theirs "until they choose to sell the same to the people of "the United States, who have the right to purchase.

In the first volume of the Laws of the United States, published 1815 John Bioren and John Duane, Philadelphia and R. C. Weightman, Washington city pages 315-323 - will be found the various contracts made by the State of New York - with the Oneida, Tuscarora, Onondaga, and Cayuga Indians,

In vol 7 U. S. Statutes at Large - pages 601.-603.- will be found contract entered into, under the sanction of the United States, between Robert Morris and the Seneca Nation of Indians indicating the tracts then, and previously, sold by them to assignees of the State of Massachusetts, leaving a remainder,

disposed of, so far as their native right was involved.

The preemption right to that remainder, or a prominent portion thereof was claimed by a company as assignee of Massachusetts generally known as Ogden v Fellows.

Here it is proper to state the authority under which the State of New York: and individual citizens of the United States entered into contracts or agreements for the extinction of the Indian title to land.

The 4th Section of an act to regulate trade and intercourse with the Indian tribes," approved 22. July 1790 enacts "that no sale of lands made by any "Indians, or any nation or tribe of Indians within the "United States, shall be valid to any person or persons, "or to any state, whether having the right of pre-emption "to such lands or not; unless the same shall be made "and duly executed at some public treaty, held under "the authority of the United States". (Statutes at Large Vol 1 page 138.)

Section 8 of an act of similar title approved 1 March 1793, embodies the same restriction with a proviso, "that it shall be lawful for the agent or agents "of any State, who may be present at any treaty, held "with Indians under the authority of the United "States, in the presence and with the approbation of "the Commissioner or Commissioners of the United "States, appointed to hold the same, to propose to a

"adjust with the Indians, the compensation to be made
"for their claims to lands within such state, which shall
"be extinguished by the treaty." Ib. page 330.

The law as it now exist is as follows: Sec. 12. "That
"no purchase, grant, lease, or other conveyance of land, or of
"any title or claim thereto, from any Indian nation or tribe
"of Indians, shall be of any validity in law or equity, unless
"the same be made by treaty or convention entered into
"pursuant to the constitution. And if any person, not
"employed under the authority of the United States, shall
"attempt to negotiate such treaty or convention, directly
"or indirectly, to treat with any such nation or tribe of
"Indians, for the title or purchase of any lands by them
"held or claimed, such person shall forfeit and pay one
"thousand dollars; Provided, nevertheless, That it shall
"be lawful for the agent or agents of any state who may be
"present at any treaty held with Indians under the authori-
"ty of the United States, in the presence and with the appro-
"bation of the commissioner or commissioners of the United
"States appointed to hold the same, to propose to, and
"adjust with the Indians, the compensation to be made
"for their claim to lands within such state, which
"shall be extinguished by treaty." (See U. S. Statutes
at Large - vol 4. page 730.)

The statement so far is intended to exhibit the status
of the native rights of the Indians to the soil occupied

and claimed by them particularly those in New York, recognised by the British Government, that of the, at one time, so called Colonies of Great Britian viz Massachusetts and New York and subsequently by the Government of the United States. What follows is intended to demonstrate the justice and equity of the claim of the New York Indians for remuneration from the Government of the United States for the lands in Wisconsin and Kansas claimed by said Indians by virtue of treaty stipulations and promises made resulting in said treaties.

The desire for the removal of Indians from New York was not agitated with any urgency until the year 1815 - although efforts looking to that object had been previously made - when Hon Alex. J. Dallas the then Acting Secretary of War by letter dated 5. Aug. of that year addressed a letter to Gov. D. D. Tompkins upon the subject. President Madison as early as April 1813. thro the Secretary of War, Mr Armstrong urged action, requesting the Indians to remain quiet &c.

The matter was continued until 1816 - when upon the urgent solicitation of parties claiming the pre-emption right to the lands of the Senecas - situate in New York, influenced the United States officials so far as to induce the Hon. W. H. Crawford, Secretary of War, on the 12. Feby 1816

to respond to the request of the Six Nations submitted by Gen Porter and Mr Granger, prominent citizens of New York, to the effect that if they, the New York Indians could effect an arrangement with Indians in the North West, embracing Winnebagoes, Chippewas, and Menomonees - for a country to which they could migrate, the United States would agree to it, with the understanding that the title in the New York Indians should be regarded as of same character as that recognized by the Government of the United States as belonging to the said North Western Indians - (See records Indian Department - Record Book B. pages xxx-xxx) paper herewith marked A

Subsequently Mr Calhoun, Secretary of War, with the approbation of President Monroe, instructed Gov. Cass, Genl. Macomb, and other United States officers on 9. February 1820 to afford every facility in travelling &c to Eleazer Williams, and his party of ten persons, who visit parts of the North West to seek a place and arrange for the same - for the Indians in New York. (See records Indian Department, Letter Book B pages xxx-xxx Doc No 189. Senate U. S. 27th Congress 2nd Session)

In this connection the accompanying papers - marked B. C. D & E indicate that the Six Nations arranged with the Winnebagoes and Menomonees for land within the limits of what is now known as the State of Wisconsin - with the approbation of the President of the United States. The title of the New York Indians was finally secured to lands in Wisconsin by the treaty between the United States and the Menomonees, ratified and proclaimed as the law of the land on the 13 March 1833. (See United States Statutes at Large - vol. 7. page 405). Thus matters stood until the year 1837. or thereabouts, when the preemptive claimants to the lands in the State of New-York, occupied by the Senecas, influenced the Government of the United States to arrange for a treaty by which the several tribes of New York Indians ceded and relinquished to the United States all their title to the lands in Wisconsin - for certain considerations - one of which was an agreement on the part of the United States to set apart a large tract of land, situate in the now State of Kansas, "for all the New York Indians "now residing in the State of New York, or in Wisconsin, "or elsewhere in the United States who have no per- "manent homes". The 10th article of this treaty refers to the fact that Ogden & Fellows - the assignees of the State of Massachusetts, had purchased of the Seneca Nation "of Indians, in the presence and with the approbation "of the United States Commissioner, appointed by the

"United States to hold said treaty, or convention, all
" the right, title, interest and claim of the Seneca
" nation, to certain lands, by deed of conveyance a du-
" plicate of which is hereunto annexed." (See vol. 7. U.S.
Statutes at Large - pages 554 to 564.)

The purchase referred to embraced four tracts of land - or reservation - viz - Buffalo creek, Tonawanda, Cattaraugus & Allegany - amounting to 114. 869 acres.

The treaty was concluded on 15. January 1838 - amendments thereto proposed by the Senate of the United States on 11th June 1838 - which were considered and assented to by the Indians - and finally ratified on 4. April 1840. The interim between date of treaty and its ratification was absorbed in its consideration by the Senate on account of serious charges having been submitted that it, the treaty, was made through fraud. (See Senate confidential doc B. No 1. 25. Congress 2nd Session and Senate confidential doc B. 26 Congress - 1st Session).

The Tonawanda band of Senecas resolutely declined to recognise said treaty, and being seconded by other bands, and friends, the treaty of 1842 was made by which Ogden & Fellows consented that the Seneca Nation should continue in the occupation and enjoyment of the Cattaraugus and Allegany reservations. (See vol 7. U.S. Statutes at Large - page - 586.)

Notwithstanding that compromise - the Tonawandas yet declined to recognise its obligation upon them and peremptorily refused to permit an appraisement of their personal improvements as preliminary to giving possession to Ogden & Fellows - The result of their refusal culminated in bringing the matter into the Courts of New York - and finally before the Supreme Court of the United States - and those courts decided in favor of the Indians - that is that "the United States made two "treaties, one in 1838, and one in 1842, with the Seneca Indians "residing in the State of New York, by which the Indians "agreed to remove to the West within five years, and relin-"quish their possessions to certain assignees of the State of "Massachusetts, and the United States agreed that they "would appropriate a large sum of money to aid in the "removal, and to support the Indians for the first year "after their removal to their new residence.

"But neither treaty made any provision as to the "mode or manner in which the removal of the In-"dians or surrender of the reservations was to take "place.

"The grantees of the land, under the Massachusetts "assignment, cannot enter upon it and take forcible "possession of a farm occupied by an Indian, but are "liable to an action of trespass, quare clausum fregit, "if they do so.

The removal of tribes of Indians is to be made

"by the authority and under the care of the Government;
"and a forcible removal, if made at all, must be made
"under the directions of the United States.

"The courts cannot go behind a treaty when
"ratified, to inquire whether or not the tribe was
"properly represented by its head men."

Under these circumstances a question arose as to what was to be done in the premises. The Supreme Court of the United States had decided that the Indians had a right to remain upon their lands until the Government of the United States had provided for their removal - where were they to go? Their land in Wisconsin acquired by the treaty of 1838 had been disposed of to our white brothers - That in Kansas had been in part occupied by white settlers, and it was notorious that the two races could not harmonize. It was known that the people of New York located in the vicinity of the Indians were favorable to their remaining. Under these circumstances - Ogden & Fellows having been sounded as to the amount in money they would be willing to receive as a consideration for their pre-emptive claim to the Sonowanda reserve, it was concluded by the Government after repeated conference with friends of the Sonowandas - to quiet their title to lands in Kansas by giving them a fair equivalent in money by which they could purchase from Ogden & Fellows

the entire Tonowanda reservation or such part thereof as would suffice for the occupancy of the Indians. The treaty of Nov 5. 1857 - was the result - (See Vol 11. Statutes at Large page - 735). That treaty was submitted to the Senate for its constitutional action and by its resolution of June 4. 1858 - advised and consented to its ratification. It was accordingly proclaimed as the law of the land, on the 31st. of March 1859. Singular as it may appear, but nevertheless such is the fact - both houses of Congress made an appropriation, per act approved 3rd. March 1859. "for payment and investment of this sum for the surrender and relinquishment of lands west of the State of Missouri - per second article treaty fifth November, eighteen hundred and fifty seven, two hundred and fifty six thousand dollars - (See vol 11 - Statutes at Large. page - 409). of that sum after purchasing from Ogden & Fellows $86.950 has been invested in 6 per cent United States Loan of 1862.

Still further to carry out the plan inaugurated in 1857 - measures were taken during the administration of President Lincoln in the year of 1864 to conclude a treaty with the other tribes and bands of the New York Indians resident in New York - to quit their claims to lands in Kansas upon the same conditions as those granted to the Tonowandas, but for the reasons given by the Hon. Commissioner of Indian Affairs in his annual report for the year

1854 - the attempt was unsuccessful. He stated that "directions having been given for the survey and sale of "the lands in Kansas - belonging to the New York In-"dians, without first providing for the extinction of "their title thereto, the Indians were of course dissati-"fied, and made urgent appeals for compensation "or indemnification for this spoliation. Their claim "being undeniable and just, Mr Charles E Mix, "Chief Clerk of this office was appointed, on the 5th "May last, Special Commissioner to visit those Indians "for the purpose of entering into a convention to extinguish "their title to said lands and providing for a just "and fair remuneration. A few days previous to his "arrival amongst them the Senecas had held their an-"nual election for officers of their government and se-"lected, by a small majority, the candidates of a party "opposed to those in power. These new officers together "with the representatives of some of the other bands, in "the opening Council with the Indians, treated the "Commissioner with so much disrespect and in-"dignity that, in justice to the Government whose "representative he was, he considered it to be his duty to "withdraw from the council, and return without effect-"ing the object of his visit."

No definite action was had to renew the negotiation until late in the year 1868 - when on 4. December - articles of agreement and convention were entered

into between the United States and the several tribes and bands of Indians residing in the State of New York excepting the Tonawandas. The 1st article is as follows. "The said Indians parties hereto, including "the Senecas, (except the Tonowanda band of Senecas, parties "to the treaty of November 5, 1857,) the Onondagas, the Tuscaroras, the Cayugas, the Oneidas, and the St Regis, represented by their duly authorized delegates, do hereby surrender and relinquish to the United States all claims, severally and in common, as tribes and band of Indians, to "the lands west of the State of Missouri, and all right and "claim to be removed thither, and for support and subsistence after such removal, and all other claims against "the United States under the treaty between the United "States and the New York Indians concluded on the 15th "day of January, 1838. and the treaty with the Senecas "concluded on the 20th day of May, 1842. Provided that "their rights to the reservations at present occupied by "them shall not in any wise be impaired by this treaty."

The remaining article provide in detail for the application of the consideration to be given for the relinquishment made by Indians in the first article. (See Senate confidential doc-40th Congress-3rd Session-Executive Q.)

The treaty was submitted to the Senate for its constitutional action on the 25th Jany, 1869, by the President of the United States, and referred on the 28th

of that month to the committee on Indian Affairs - who made their report to the Senate thro Senator Buckingham, on 3rd May, 1870 - ~~adverse~~ adverse to its ratification. That report, after reciting the various stipulations of the treaty, proceeds to examine the title which the New York Indians have in the lands which they propose to relinquish, to the government and concludes as follows:- "By a treaty between the United States "and the New York Indians, concluded January 15, "1838, the New York Indians relinquished to the United "States all lands at Green Bay, except a tract upon "which a part of the New York Indians then resided, for "which the United States set apart, west of the Missouri, "as a permanent home for all the New York Indians "who had no permanent home, one million eight hun-"dred and twenty four thousand acres of land, being three "hundred and twenty acres for each member of the tribe, "and agreed to appropriate $400,000 - to be applied, from "time to time, to aid in removing to their homes, and in "supporting themselves for the first year after their remov-"al, to assist them in education, and in being taught "to cultivate their lands, in erecting mills, purchasing "domestic animals, farming utensils, and acquiring a "knowledge of the mechanic arts. But it was agreed "that those who did not accept and remove within five "years, or ~~after~~ such other time as the President might "appoint, should forfeit all interest in the lands.

"In view of these facts the committee are of the opinion "that no right to lands in Wisconsin and west of Missouri "was ever vested in the New York Indians, except the right "of occupancy; that an equivalent for the amount paid by "them to the Menomonees for land in Wisconsin was re-"ceived by those who removed to and settled upon those "lands; that the Indians who never removed to the lands "set apart for their permanent residence in Wisconsin, "and who never removed to and became located on lands "set apart for them west of Missouri, did not comply "with the requirements of the treaties, and are not "entitled to any interest in the lands nor to their proceeds. "Also that the treaty concluded with the Tonawanda band, "November 5, 1857 authorized the payment of moneys to the "members of that band, to which they had no claim under "former treaties, and should not be regarded as a precedent "by which the government should be bound or guided. They "therefore report adversely upon the ratification of the "treaty." (See Senate report No 145. 41st Congress 2nd Session.)

Without attempting to assail the correctness of the conclusions arrived at by the Hon. Committee on Indian Affairs of the Senate in the report referred to - it is not deemed as being improper to suggest that they may have erred, unintentionally of course stating facts upon which their conclusions were based. For instance on page 4 - it is represented that "on 3. September. 1836.

the Menomonees again cede to the United States the residue of the lands sold to the Six Nations in 1821, and lands ceded to the Six Nations and others in 1822, and all lands owned by them. The Six Nations assented to this agreement, and requested that the treaty be carried into effect.

Now by referring to said treaty (Statutes at Large Vol-7- page 506.) article 1st.- in which the boundaries of the cession made to the U.S.,- are described- will be found the following language- "Saving and reserving "out of the district of country above ceded and described all "that part of the five hundred thousand acre tract, granted "by the treaties between the Menomonees and the United "States, made on eight day of February A.D. 1831,- and "on the twenty seventh day of October A.D. 1832- which "may be situated within the boundaries hereinbefore "described".- Was not the 500,000 acres referred to as saved and reserved from the cession the tract granted to the New York Indians?

New York Indians not parties

Again by referring to the treaties of 1831 & 32- it will be observed that the clause in the former treaty- limiting the grant only to those "who may remove "to and settle upon the same, within three years from the date of this agreement" was essentially modified so as to make unlimited the time of removal and settlement upon these lands by the New York Indians, but to leave the matter discretionary with the President

of the United States - See preamble to agreement of 17. Feby. 1871. on page 346 - of Vol. 7 Statutes at Large -

Did the President of the United States ever exercise his discretion in the premises by fixing any period of time within which the Indians residing in the State of New York should remove to Wisconsin as a condition precedent to availing of the grant?

Did not the treaty of 1838, and that of 1842 - vary the stipulations of former treaties so far that removal west of the Mississippi - was in lieu of removal to Wisconsin - the Indians relinquishing their claims to the lands in that State for land and other beneficial objects to be furnished them west of said Mississippi River?

The 3rd article of the treaty of 1838 provides that such of the tribes of the New York Indians as do not accept and agree to remove to the country set apart for their new homes within five years, or such other time as the President may from time to time appoint, shall forfeit all interest in the lands so set apart to the United States - In this connection reference is again made to decision of Supreme Court to be found in Howard vol. 19 - page 366 and also to another similiar decision to be found in Howard 21 - page 366 - showing most conclusively that the President had never appointed any time within which they were to remove nor has been

gress placed at his disposal the requisite means to accomplish it.

Again has not the Government of the United States - by acts of the Executive and both branches of the Legislature in the case of the Tonawanda Senecas - annulled that provision?

A

A Brothers of the Six Nations:

The memorial which you have sent to your great father, the President, by your friends, General Porter, and Mr. Graham, has been presented by them. In this memorial you make known to your great father your desire to remove from your present settlements in New York, with a view to settle upon lands in the west – and wish to be informed whether the government will consent to it; whether, if you obtain a seat upon the lands of your western brethren, your title will be acknowledged by the Government, in the same manner as it now does those from whom you may receive it; and whether your removal will, in any manner, change the relations now subsisting between your several tribes and the Government; whether existing treaties will still remain in force, and the annuities paid as heretofore.

Brothers: Your great father, the President, having duly considered all your requests, and extremely desirous of giving to his children of the Six Nations a particular mark of his friendship, and attention to their interests, has directed me to inform the sachems of the Six Nations that all their requests are granted. Your great father consents to your removal, and settlement with your brethren in the west, and declares that your removal shall in no manner change your friendly relations

"and existing treaties, with the Government, and
"that your annuities shall be paid as heretofore, He
"also agrees to acknowledge the title to such lands as
"you shall obtain, by grant, or otherwise, from your
"western brethren, in the same manner as he acknow-
"ledges the title of all friendly Indian tribes.
"Brothers: Your great father, the President, has also di-
"rected me to advise you to define the limits of the seats
"which you are about to obtain from your brethren in
"the west, and furnish the Government with its metes
"and bounds, so that in treaties to be held hereafter with
"other tribes, your lands may not be granted away by
"them. The agent of the United States will be instruct-
"ed to assist you in defining, and, if necessary, in mar-
"king the lines of your new possessions.
"Brothers: In granting all your requests, your great
"father, the President, has not been unmindful of the
"friendship which you have uniformly manifested
"to your white brethren, and he confidently expects
"that the same friendship will continue to direct
"all your actions.
"He calculates much upon the influence which your pa-
"cific and friendly intercourse with your red brethren in the west,
"will have upon their relations with the United States, in avoid-
"ing all hostilities in future.
"Given under my hand, and the seal of the War
"Office, this twelfth day of February, one thousand

"eight hundred and sixteen"
L.S. Wm H Crawford,

B

B

President's Approval.

The within arrangement entered into between the Six Nations, the St. Regis, Stockbridge and Munsee Nations of the one part, and the Menomonies and Winnebagoes of the other, is approved, with the express understanding, that the lands thereby conveyed to the Six Nations, the St. Regis, Stockbridge, and Munsee Nations are to be held by them in the same manner as they were previously held by the Menomonies and Winnebagoes.

James Munroe.

February 9. 1822.

C

C Extract of a letter from the Secretary of War to Solomon M. Hendrick, deputy from the Stockbridge Nation, dated 15th February, 1822.

I have received your communications of the 5th instant, and return herewith, the original treaty concluded at Green Bay, between the deputies from the Stockbridge, and other tribes of the Six Nations, and the Menomonies and Winnebagoes, endorsed by the President approved. I regret that any portion of the Six Nations is dissatisfied with the treaty, but as one of the causes of dissatisfaction appears to be the distance of the country ceded thereby from Green Bay, and may be obviated by procuring an extension of the cession as proposed, the permission which is solicited for another deputation from the Stockbridge and other tribes of the Six Nations, to visit the country again for that purpose is granted.

The country the Six Nations have, or may acquire from the Menomonies and Winnebagoes, will be held by them in the same manner as it was by the Indians who previously owned it. The deputies that may be appointed to make the arrangements (not exceeding six in number) will be provided with letters similar to those given to them last year; and orders will be given for them to be furnished with one ration each while on their journey, and engaged in effecting

C

C Extract of a letter from the Secretary of War to Solomon M. Hendrick, deputy from the Stockbridge Nation, dated 15th February, 1822.

I have received your communications of the 5th instant, and return herewith, the original treaty concluded at Green Bay, between the deputies from the Stockbridge, and other tribes of the Six Nations, and the Menomonies and Winnebagoes, endorsed by the President approved. I regret that any portion of the Six Nations is dissatisfied with the treaty, but as one of the causes of dissatisfaction appears to be the distance of the country ceded thereby from Green Bay, and may be obviated by procuring an extension of the cession as proposed, the permission which is solicited for another deputation from the Stockbridge, and other tribes of the Six Nations, to visit the country again for that purpose is granted.

The country the Six Nations have, or may acquire from the Menomonies and Winnebagoes, will be held by them in the same manner as it was by the Indians who previously owned it. The deputies that may be appointed to make the arrangement (not exceeding six in number) will be provided with letters similar to those given to them last year; and orders will be given for them to be furnished with one ration each while on their journey, and engaged in effecting

the object of their visit. * * * *
Governor Cass has been instructed to give the Indians who may emigrate from the Stockbridge and other tribes of the Six Nations every facility in his power in fixing themselves upon the lands they have acquired of the Menomonies and Winnebagoes.

D

D

President's Approval,

The foregoing instrument is approved, so far as it conveys to the Stockbridge, Oneida, Tuscarora, St. Regis, and Munsee tribes, or nations of Indians, that portion of the country therein described, which lies between Sturgeon bay, Green bay, Fox river, that part of the former purchase made by said tribes or nations of Indians of the Menomonie and Winnebago Indians on the 8th August, 1821, which lies south of Fox river, and a line drawn from the south-western extremity of said purchase to the head of Sturgeon bay, and no further; that quantity being deemed sufficient for the use of the first beforementioned tribes and nations of Indians. It is to be understood, however, that the lands, to the cession of which to the tribes or nations aforesaid, the Government has assented, are to be held by them in the same manner, as they were held by the Menomonies, previous to concluding and signing the aforegoing instrument; and that the title which they have acquired is not to interfere in any manner whatever, with the lands previously acquired or occupied by the Government of the United States, or its citizens.

Given under my hand, at the city of Washington, this 13th day of March, in the year of our Lord 1825.

James Monroe.

E

E General circular to Indian agents and officers of the Government in the Michigan Territory.

The Rev. Eleazer Williams, who bears this, and his companions, forming a party of seven, visit the Michigan Territory as delegates from the Stockbridge tribe, and from the Oneida, and other tribes of the six Nations of Indians, residing in the State of New York, for the purpose of obtaining from the Menomonies and Winnebagoes in the neighborhood of Green Bay an extension of the cession of land, which was made by the latter to the former tribes in a treaty concluded between them 18th August 1821; which has received the sanction of the President of the United States. The object of their visit is approved and they are hereby recommended to the attention and kindness of all officers of Government.

J. C. Calhoun

Department of War. May 8th 1822.

Chas E Mix's
Statement of the Claim
of the Osage Indians
to Land in Kansas.

1872

1872

1872

REASONS WHY THE GOVERNMENT OF THE UNITED STATES SHOULD RECOGNIZE AND RESPECT THE CLAIM OF THE SO-CALLED SIX NATIONS OF NEW YORK INDIANS FOR COMPENSATION FOR THEIR LAND IN THE STATE OF KANSAS -- FOR THAT IN THE STATE OF WISCONSIN.

1ST.

ON THE DISCOVERY OF THIS CONTINENT, THE EUROPEANS WERE EAGER TO APPROPRIATE SO MUCH OF IT AS THEY COULD REQUIRE. WHILE THEY RESPECTED THE RIGHT OF THE NATIVES, AS OCCUPANTS, THEY ASSERTED THE ULTIMATE RIGHT TO BE IN THEMSELVES. AS A CONSEQUENCE, THE INDIANS, HAD ONLY THE USUFRUCT TITLE. THE ULTIMATE FEE WAS IN THE STATE. IN ACCORDANCE WITH THAT PRINCIPLE, GRANTS WERE MADE BY GREAT BRITAIN TO ITS COLONIES IN AMERICA. BY THE TREATY WHICH CONCLUDED THE WAR OF OUR REVOLUTION, GREAT BRITAIN RELINQUISHED ALL CLAIM, NOT ONLY TO THE GOVERNMENT, BUT TO THE "PROPRIETY AND TERRITORIAL RIGHTS OF THE UNITED STATES." BY THIS TREATY, THE POWERS OF GOVERNMENT AND THE RIGHT TO SOIL WHICH HAD PREVIOUSLY BEEN IN GREAT BRITAIN, PASSED DEFINITELY TO THE STATES.

[UNITED STATES] STATUTES AT LARGE VOL. 7, I TO II.]

BY VIRTUE OF VARIOUS LETTERS PATENT GRANTED BY ENGLAND PRIOR TO THE COMMENCEMENT OF THE REVOLUTIONARY WAR, THE STATE OF MASSACHUSETTS CLAIMED CERTAIN LANDS SITUATE WITHIN THE LIMITS OF THE STATE OF NEW YORK. THIS CLAIM WAS ADJUSTED BY DEED OF CONVENTION BETWEEN THE TWO STATES ENTERED INTO ON 16 DECEMBER, 1786-- BY WHICH MASSACHUSETTS CEDED TO NEW YORK THE GOVERNMENT, SOVEREIGNTY AND JURISDICTION OF ALL THE LANDS SITUATE WITHIN THE PRESENT LIMITS OF THE LATTER STATE, AND NEW YORK, CEDED, GRANTED, AND RELEASED TO MASSACHUSETTS THEIR GRANTEES AND THE HEIRS AND ASSIGNS OF SUCH GRANTEES FOR EVER, THE RIGHT OF PRE-EMPTION OF THE SOIL FROM THE NATIVE INDIANS. AND ALL OTHER THE ESTATE, RIGHT, TITLE, AND PROPERTY OF AND IN TWO TRACTS OF LAND, &C &C. IT WAS ALSO STIPULATED THAT MASSACHUSETTS MIGHT SELL AND DISPOSE OF THE RIGHT OF PRE-EMPTION TO THE WHOLE OR ANY PART OF THE SAID LANDS, AND THE GRANTEES SHOULD HAVE GOOD RIGHT TO EXTINGUISH, BY PURCHASE, THE CLAIMS OF THE NATIVE INDIANS; BUT IT WAS PROVIDED THAT NO PURCHASE FROM THE NATIVE INDIANS, FOR SUCH GRANTEES, SHOULD BE VALID UNLESS MADE IN THE PRESENCE OF, AND APPROVED BY, A SUPERINTENDENT, TO BE APPOINTED FOR THAT PURPOSE BY THE COMMONWEALTH OF MASSACHUSETS.

ON 19 APRIL 1795 MASSACHUSETS, PURSUANT TO A RESOLVE OF

CONGRESS OF 10 OCTOBER 1780, RELEASE TO THE UNITED STATES ALL LAND INCLUDED IN THEIR ORIGINAL GRANTS WHICH LAY WEST OF THE WESTERN LIMITS OF THE STATE OF NEW YORK.

THE SENECA INDIANS, ONE OF THE TRIBES OF THE SIX NATIONS CLAIMED AT THE TIME OF THE CONVENTION BETWEEN NEW YORK AND MASSACHUSETS, 16 DEC. 1786 -- EXCLUSIVELY THE NATIVE RIGHT TO THE LANDS WHEREOF THE PRE-EMPTION WAS CEDED TO MASSACHUSETS. THE MOHAWKS HAVING REMOVED TO CANADA AND THE LANDS OCCUPIED BY THE ONAMBAGO, ONEIDA, CAYUGA AND OTHER TRIBES OF THE SIX NATIONS. NOT BEING INCLUDED IN THE CESSION MADE BY MASSACHUSETTS, THE RIGHT OF PRE-EMPTION, AS TO THE LANDS OF THESE LATTER DESIGNATED TRIBES REMAINED IN THE STATE OF NEW YORK.

SUBSEQUENTLY TO THIS CONVENTION, AND PRIOR TO THE YEAR 1794, MASSACHUSETTS SOLD AND CONVEYED THE PRE-EMPTION RIGHT, AND ALL OTHER THEIR RIGHT, TITLE, AND INTEREST IN THESE CEDED LANDS TO DIFFERENT INDIVIDUALS, WHO HAVE SINCE, IN LIKE MANNER, SOLD AND CONVEYED TO OTHERS.

THE TREATY BETWEEN THE UNITED STATES AND THE SIX NATIONS CONCLUDED NOVEMBER 11, 1794 -- [SEE U.S.STATUTES AT LARGE VOL.7. PAGE 44] CONTAINS THE FOLLOWING CLAUSE:--

"ARTICLE II, THE UNITED STATES ACKNOWLEDGE THE LANDS "RESERVED TO THE ONEIDA, ONONDAGO, AND CAYUGA NATIONS, IN THEIR

"RESPECTIVE TREATIES WITH THE STATE OF NEW YORK, TO BE THEIR "PROPERTY: AND THE UNITED STATES WILL NEVER CLAIM THE SAME, NOR "DISTURB THEM, OR EITHER OF THE SIX NATIONS, NOR THEIR INDIAN "FRIENDS RESIDING THEREON AND UNITED WITH THEM IN THE FREE USE "AND ENJOYMENT THEREOF, BUT THE SAID RESERVATIONS SHALL REMAIN "THEIRS UNTIL THEY CHOOSE TO SELL THE SAME TO THE PEOPLE OF THE "UNITED STATES, WHO HAVE THE RIGHT TO PURCHASE."

THE THIRD ARTICLE OF THAT TREATY , AFTER SPECIFYING THE BOUNDARIES OF THE LANDS OF THE SENECA INDIANS, CONTAINS THE FOLLOWING STIPULATION:

"NOW THE UNITED STATES ACKNOWLEDGE ALL THE LAND WITHIN "THE ABOVE MENTIONED BOUNDARIES TO BE THE PROPERTY OF THE SENECA "NATION, AND THE UNITED STATES WILL NEVER CLAIM THE SAME, NOR DIS-"TURB THE SENECA NATION, NOR ANY OF THE SIX NATIONS, OR OF THEIR IN-"DIAN FRIENDS RESIDING THEREON AND UNITED WITH THEM, IN THE FREE "USE AND ENJOYMENT THEREOF, BUT IT SHALL REMAIN THEIRS UNTIL "THEY CHOOSE TO SELL THE SAME TO THE PEOPLE OF THE UNITED STATES, "WHO HAVE THE RIGHT TO PURCHASE."

IN THE FIRST VOLUME OF THE LAWS OF THE UNITED STATES, PUBLISHED IN 1815. JOHN BIOREN AND JOHN BUANE, PHILADELPHIA AND R. C. WIGHTMAN, WASHINGTON CITY, PAGES 315 -- 328. WILL BE FOUND THE VARIOUS CONTRACTS MADE BY THE STATE OF NEW YORK, WITH THE ONEIDA, TUSCARORA, ONONDAGA, AND CAYUGA INDIANS.

IN VOL. 7, U. S. STATUTES AT LARGE, PAGES 601,603, WILL BE FOUND CONTRACT ENTERED INTO, UNDER THE SANCTION OF THE UNITED STATES, BETWEEN ROBERT MORRIS AND THE SENECA NATION OF INDIANS, INDICATING THE TRACTS THEN, AND PREVIOUSLY, SOLD BY THEM TO ASSIGNEES OF THE STATE OF MASSACHUSETTS, LEAVING A REMAINDER UNDISPOSED ON, SO FAR AS THEIR NATIVE RIGHT WAS INVOLVED.

THE PRE-EMPTION RIGHT TO THAT REMAINDER, OR A PROMINENT PORTION THEREOF WAS CLAIMED BY A COMPANY AS ASSIGNEE OF MASSACHUSETTS GENERALLY KNOWN AS OGDEN & FELLOWS.

HERE IT IS PROPER TO STATE THE AUTHORITY UNDER WHICH THE STATE OF NEW YORK: AND INDIVIDUAL CITIZENS OF THE UNITED STATES, ENTERED INTO CONTRACTS OR AGREEMENTS FOR THE EXTINCTION OF THE INDIAN TITLE TO LAND.

THE 4TH. SECTION OF "AN ACT TO REGULATE TRADE AND INTERCOURSE WITH THE INDIAN TRIBE," APPROVED 22 JULY, 1790, ENACTS "THAT NO SALE OF LANDS MADE BY ANY INDIANS WITHIN THE UNITED "STATES, SHALL BE VALID TO ANY PERSON OR PERSONS, OR TO ANY "STATE, WHETHER HAVING THE RIGHT OF PRE-EMPTION TO SUCH LANDS OR "NOT, UNLESS THE SAME SHALL BE MADE AND DULY EXECUTED AT SOME "PUBLIC TREATY HELD UNDER THE AUTHORITY OF THE UNITED STATES." {STATUTES AT LARGE, VOL.I. PAGE 138.}

SECTION 8 OF AN ACT OF SIMILAR TITLE, APPROVED 1 MARCH, 1793, EMBODIES THE SAME RESTRICTION WITH A PROVISO, "THAT IT "SHALL BE LAWFUL FOR THE AGENT OR AGENTS OF ANY STATE, WHO MEET

MAY BE PRESENT AT ANY TREATY HELD WITH INDIANS UNDER THE AUTHORITY OF THE UNITED STATES, IN THE PRESENCE AND WITH THE APPROBATION OF ''THE COMMISSIONER OR COMMISSIONERS OF THE UNITED STATES, APPOIN- ''TED TO HOLD THE SAME, TO PROPOSE TO AND ADJUST WITH THE INDIANS ''A COMPENSATION TO BE MADE FOR THEIR CLAIMS TO LANDS WITHIN SUCH ''STATE, WHICH SHALL BE EXTINGUISHED BY THE TREATY.'' IB.PAGE 330

THE LAW, AS IT NOW EXISTS, IS AS FOLLOWS: SEC.18, ''THAT NO PURCHASE, GRANT, LEASE OR OTHER CONVEYANCE OF LAND OR ''OF ANY TITLE OR CLAIM THERETO, FROM ANY INDIAN NATION OR TRIBE ''OF INDIANS, SHALL BE OF ANY VALIDITY IN LAW OR EQUITY, UNLESS ''THE SAME BE MADE BY TREATY OR CONVENTION ENTERED INTO PURSUANT ''TO THE CONSTITUTION. AND IF ANY PERSON NOT EMPLOYED UNDER THE ''AUTHORITY OF THE UNITED STATES, SHALL ATTEMPT TO NEGOTIATE SUCH ''TREATY OR CONVENTION, DIRECTLY OR INDIRECTLY, TO TREAT WITH ANY SUCH NATION OR TRIBE OF INDIANS, FOR THE TITLE OR PURCHASE OF ANY ''LAND BY THEM HELD OR CLAIMED, SUCH PERSONS SHALL FORFEIT OR PAY ''$1000: PROVIDED, NEVERTHELESS, THAT IT SHALL BE LAWFUL FOR THE ''AGENT OR AGENTS OF ANY STATE WHO MAY BE PRESENT AT ANY TREATY ''HELD WITH INDIANS UNDER THE AUTHORITY OF THE UNITED STATES, IN ''THE PRESENCE AND WITH THE APPROBATION OF THE COMMISSIONER OR ''COMMISSIONERS OF THE UNITED STATES APPOINTED TO HOLD THE SAME, ''TO PROPOSE TO, AND ADJUST WITH THE INDIANS, THE COMPENSATION TO BE MADE FOR THEIR CLAIM TO LANDS WITHIN SUCH STATE, WHICH SHALL BE ''

"EXTINGUISHED BY TREATY." [SEE U. S. AT LARGE VOL. 4, PAGE 730]

THE STATEMENT SO FAR IS INTENDED TO EXHIBIT THE STATUS OF THE NATIVE RIGHTS OF THE INDIANS TO THE SOIL OCCUPIED AND CLAIMED BY THEM, PARTICULARLY THOSE IN NEW YORK, RECOGNIZED BY THE BRITISH GOVERNMENT, THAT OF THE, AT ONE TIME, SO-CALLED COLONIES OF GREAT BRITAIN, VIZ: MASSACHUSETTS AND NEW YORK AND SUBSEQUENTLY BY THE GOVERNMENT OF THE UNITED STATES. WHAT FOLLOWS IS INTENDED TO DEMONSTRATE THE JUSTICE AND EQUITY OF THE CLAIM OF THE NEW YORK INDIANS FOR REMUNERATION FROM THE GOVERNMENT OF THE UNITED STATES FOR THE LANDS IN WISCONSIN AND KANSAS CLAIMED BY SAID INDIANS BY VIRTUE OF TREATY, STIPULATIONS, AND PROMISES MADE RESULTED IN SAID TREATIES.

THE DESIRE FOR THE REMOVAL OF INDIANS FROM NEW YORK WAS NOT AGITATED WITH ANY URGENCY UNTIL THE YEAR 1815, ALTHOUGH EF, FORTS LOOKING TO THAT OBJECT HAD BEEN PREVIOUSLY MADE, WHEN HONORABLE ALEX. J. DALLAS, THE THEN ACTING SECRETARY OF WAR, BY LETTER DATED 5 AUG. OF THAT YEAR, ADDRESSED A LETTER TO GOV. D. D. TOMPKINS UPON THE SUBJECT. PRESIDENT MADISON AS EARLY AS APRIL 1810, THRO THE SECRETARY OF WAR, MR. ARMSTRONG, IRGED ACTION, REQUESTING THE INDIANS TO REMAIN QUIET &C.

THE MATTER WAS CONTINUED UNTIL 1816 WHEN UPON THE URGENT SOLICITATION OF PARTIES CLAIMING THE PRE-EMPTION RIGHT TO "

STATES OFFICIALS SO FAR AS TO INDUCE THE HON. W. H. CRAWFORD, SEC. OF WAR, ON THE 18 FEB. 1816, TO RESPOND TO THE REQUEST OF THE SIX NATIONS, SUBMITTED BY GEN. PORTER AND MR. GRANGER, PROMINENT CITIZENS OF NEW YORK TO THE EFFECT THAT IF THEY, THE NEW YORK INDIANS COULD EFFECT AN ARRANGEMENT WITH INDIANS IN THE NORTH WEST, EMBRACING WINNABAGOES, CHIPPEWAS, AND MENOMONEES. FOR A COUNTRY TO WHICH THEY COULD MIGRATE, THE UNITED STATES WOULD AGREE TO IT WITH THE UNDERSTANDING THAT THE TITLE IN THE NEW YORK INDIANS SHOULD BE REGARDED AS OF SAME CHARACTER AS THAT RECOGNIZED BY THE GOVERNMENT OF THE UNITED STATES AS BELONGING TO THE SAID NORTH WESTERN INDIANS. (SEE PAPER HEREWITH MARKED A)

SUBSEQUENTLY, MR. CALHOUN, SECRETARY OF WAR, WITH THE APPROBATION OF PRESIDENT MONROE, INSTRUCTED GOVERNOR CASS, GENERAL MACOMB AND OTHER UNITED STATES OFFICERS ON 9 FEBRUARY 1820. TO AFFORD EVERY FACILITY IN TRAVELLING &C. TO ELEAZER WILLIAMS AND HIS PARTY OF TEN PERSONS, WHO VISIT PARTS OF THE NORTH WEST, TO SEEK A PLACE AND ARRANGE FOR THE SAME FOR THE INDIANS IN NEW YORK. DOC. NO. 189. SENATE U.S. 27TH. CONGRESS 2ND. SESSION.

IN THIS CONNECTION THE ACCOMPANYING PAPERS MARKED B. C. D AND E. INDICATE THAT THE SIX NATIONS ARRANGED WITH THE WINNEBAGO. AND MENOMONEES FOR LAND WITHIN THE LIMITS OF WHAT IS NOW KNOWN AS A STATE OF WISCONSIN, WITH THE APPROBATION OF THE PRESIDENT OF THE UNITED STATES. THE TITLE OF THE NEW YORK INDIAND WAS FINALLY

SECURED TO LANDS IN WISCONSIN BY THE TREATY BETWEEN THE UNITED STATES AND THE MENOMONEES, RATIFIED AND PROCLAIMED AS THE LAW OF THE LAND ON THE 13 MARCH 1838, [SEE UNITED STATES STATURES AT LARGE VOL. 7, PAGE 405.] THUS MATTERS STOOD UNTIL THE YEAR 1837, OR THEREABOUTS, WHEN THE PRE-EMPTIVE CLAIMS OF THE LANDS IN THE STATE OF NEW YORK, OCCUPIED BY THE SENECAS INFLUENCEDTHE GOVERNMENT OF THE UNITED STATES TO ARRANGE FOR A TREATY BY WHICH THE SEVERAL TRIBES OF NEW YORK INDIANS CEDED AND RELINQUISHED TO THE UNITED STATES ALL THEIR TITLE TO THE LANDS IN WISCONSIN -- FOR CERTAIN CONSIDERATIONS -- ONE OF WHICH WAS AN AGREEMENT ON THE PART OF THE UNITED STATES TO SET APART A LARGE TRACT OF LAND, SITUATE IN THE NOW STATE OF KANSAS, ''FOR ALL THE NEW YORK INDIANS, NOW RESIDING ''IN THE STATE OF NEW YORK OR IN WISCONSIN, OR ELSEWHERE IN THE ''UNITED STATES WHO HAVE NO PERMANENT HOMES.'' THE TENTH ARTICLE OF THIS TREATY REFERS TO THE FACT THAT OGDEN AND FELLOWS, THE ASSIGNEES OF THE STATE OF MASSACHUSETTS, HAD ''PURCHASED OF ''THE SENECA NATION OF INDIANS, IN THE PRESENCE AND WITH THE AP- ''PROBATION OF THE UNITED STATES COMMISSIONERS, APPOINTED BY THE ''UNITED STATES TO HOLD SUD SAID TREATY OR CONVENTION, ALL THE RIGHT, TITLE, INTEREST, AND CLAIM OF THE SENECA NATION, TO CERTAIN LANDS BY DEED OF CONVEYANCE A DUPLICATE OF WHUCH IS HEREUNTO ANNEXED.'' [SEE VOL. 7 U. S. STATUTES AT LARGE, PAGES 550 TO 554.]

THE PURCHASE REFERRED TO EMBRACED FOUR TRACTS OF BEND OR RESERVATION, VIZ: BUFFALO CREEK, TONOWANDA, CADDARAGUS AND ALLEGANY, AMOUNTING TO 114,869 ACRES.

THE TREATY WAS CONCLUDED ON 15 JANUARY, 1838 -- AMENDMENTS THERETO PROPOSED BY THE SENATE OF THE UNITED STATES, ON 11TH. JUNE 1838, WHICH WAS CONSIDERED AND ASSENTED TO BY THE INDIANS, AND FINALLY RATIFIED ON 4 APRIL, 1840. THE INTERIM BETWEEN DATE OF TREATY AND ITS RATIFICATION WAS ABSORBED IN ITS CONSIDERATION BY THE SENATE ON ACCOUNT OF SERIOUS CHARGES HAVING BEEN SUBMITTED THAT IT, THE TREATY, WAS MADE THROUGH FRAUD. (SEE SENATE CONFIDENTIAL DOC. E. NO.1 25 CONGRESS.2ND.SESSION AND SENATE CONFIDENTIAL DOC. B. 26 CONGRESS. 1ST. SESSION).

THE TOWANDA.BANEW BAND OF SENECAS RESOLUTELY DECLINED TO RECOGNIZE THE SAID TREATY, AND BEING SECONDED BY OTHER BANDS, AND FRIENDS, THE TREATY OF 1842 WAS MADE BY WHICH OGDEN AND FELLOWS CONSENTED THAT THE SENECA NATION SHOULD CONTINUE IN THE OCCUPATION AND ENJOYMENT OF THE CATTARAUGUS AND ABLEGANY RESERVATIONS. (SEE VOL.7. UNITED STATES STATUTES AT LARGE, PAGE 586.)

NOTWITHSTANDING THAT COMPROMISE, THE TONOWANDAS YET DECLINED TO RECOGNIZE ITS OBLIGATION UPON THEM AND PEREMPTORILY REFUSED TO PERMIT AN APPRAISEMENT OF THEIR PERSONAL IMPROVEMENTS AS PRELIMINARY TO GIVING POSSESSION TO OGDEN & FELLOWS. THE RESULT OF THEIR REFUSAL CULMINATED IN BRINGING THE MATTER INTO THE

COURTS OF NEW YORK, AND FINALLY BEFORE THE SUPREME COURT OF THE UNITED STATES, AND THOSE COURTS DECIDED IN FAVOR OF THE INDIANS, THAT IS, THAT THE "UNITED STATES MADE TWO TREATIES, "ONE IN 1838, AND ONE IN 1842, WITH THE SENECA INDIANS RESIDING "IN THE STATE OF NEW YORK, BY WHICH THE INDIANS AGREED TO REMOVE "TO THE WEST WITHIN FIVE YEARS, AND RELINQUISH THEIR POSSESSIONS TO CERTAIN ASSIGNEES OF THE STATE OF MASSACHUSETTS, AND THE UNI- "TED STATES AGREED THAT THEY WOULD APPROPRIATE A LARGE SUM OF MONEY TO AID THE REMOVAL, AND TO SUPPORT THE INDIANS FOR THE FIRST YEAR AFTER THEIR REMOVAL TO THEIR NEW RESIDENCE."

BUT NEITHER TREATY MADE ANY PROVISION AS TO THE MODE OR MANNER IN WHICH THE REMOVAL OF THE INDIANS OR SURRENDER OF THE RESERVATIONS WAS TO TAKE PLACE.

THE GRANTEES OF THE LAND, UNDER THE MASSACHUSETTS ASSIGNMENT, CANNOT ENTER UPON IT AND TAKE FORCIBLE POSSESSION OF A FARM OCCUPIED BY AN INDIAN, BUT ARE LIABLE TO AN ACTION OF TRESPASS QUARE CLAUSUM FREGIT, IF THEY DO SO.

THE REMOVAL OF TRIBES OF INDIAND IS TO BE MADE BY THE AUTHORITY AND UNDER THE CARE OF THE GOVERNMENT; AND A FORCIBLE REMOVAL, IF MADE AT ALL, MUST BE MADE UNDER THE DIRECTIONS OF THE UNITED STATES.

''THE COURTS CANNOT GO BEHIND A TREATY, WHEN RATIFIED, -- QUIRE WHETHER OR NOT THE TRIBE WAS PROPERLY REPRESENTED BY ITS HEAD MEN!'

UNDER THESE CIRCUMSTANCES A QUESTION AROSE AS TO WHAT WAS TO BE DONE IN THE PREMISES. THE SUPREME COURT OF THE UNITED STATES HAD DECIDED THAT THE INDIANS HAD A RIGHT TO REMAIN UPON THEIR LANDS UNTIL THE GOVERNMENT OF THE UNITED STATES HAD PROVIDED FOR THEIR REMOVAL -- WHERE WERE THEY TO GO? THEIR LAND IN WISCONSIN, ACQUIRED BY THE TREATY OF 1838, HAD BEEN DISPOSED OF TO OUR WHITE BROTHERS. THAT IN KANSAS HAD BEEN IN PART OCCUPIED BY WHITE SETTLERS, AND IT WAS NOTORIOUS THAT THE TWO RACES COULD NOT HARMONIZE. IT WAS KNOWN THAT THE PEOPLE OF NEW YORK LOCATED IN THE VICINITY OF THE INDIANS WERE FAVORABLE TO THEIR REMAINING. UNDER THESE CIRCUMSTANCES, OGDEN & FELLOWS HAVING BEEN SOUNDED AS TO THE AMOUNT IN MONEY, THEY WOULD BE WILLING TO RECEIVE AS A CONSIDERATION FOR THEIR PRE-EMPTIVE CLAIM TO THE TONOWANDA RESERVE, IT WAS CONCLUDED BY THE GOVERNMENT AFTER REPEATED CONFERENCE WIT THE FRIENDS OF THE TONOWANDAS, TO QUIET THEIR TITLE TO LANDS IN KANSAS BY GIVING THEM A FAIR EQUIVALENT IN MONEY BY WHICH THEY COULD PURCHASE FROM OGDEN AND FELLOWS THE ENTIRE TONOWANDA RESERVATION OR SUCH PART THEREOF AS WOULD SUFFICE WITH THE OCCUPANCY OF THE INDIANS. TTHE TREATY OF NOV.5 1857, WAS THE RESULT (SEE VOL.II STATUTES AT LARGE, PAGE 735.) THAT TREATY WAS SU

MITTED TO THE SENATE FOR ITS CONSTITUTIONAL ACTION AND BY ITS RESOLUTION OF JUNE 4, 1858, ADVISED AND CONSENTED TO ITS RATIFICATION. IT WAS ACCORDINGLY PROCLAIMED AS THE LAW OF THE LAND ONE 31ST. OF MARCH, 1859. SINGULAR AS IT MAY APPEAR, BUT NEVERTHELESS SUCH IS THE FACT, BOTH HOUSES OF CONGRESS MADE AN APPROPRIATION, PER ACT APPROVED 3RD. MARCH 1859. "FOR PAYMENT AND INVESTMENT OF THIS SUM FOR THE SURRENDER AND RELINQUISHMENT OF LANDS WEST OF THE STATE OF MISSOURI -- PER SECOND ARTICLE TREATY FIFTH NOVEMBER, EIGHTEEN HUNDRED AND FIFTY-SEVEN, TWO HUNDRED AND FIFTY-SIX THOUSAND DOLLARS -- [SEE VOL.II, STATUTES AT LARGE. PAGE 409] OF THAT SUM, AFTER PURCHASING FROM OGDEN & FELLOWS $86,950 HAS BEEN INVESTED IN 6 PER CENT UNITED STATES LOAN OF 1868.

STILL FURTHER TO CARRY OUT THE PLAN INAUGURATED IN 1857, MEASURES WERE TAKEN DURING THE ADMINISTRATION OF PRESIDENT LINCOLN IN THE YEAR 1864, TO CONCLUDE A TREATY WITH THE OTHER TRIBES AND BANDS OF THE NEW YORK INDIANS RESIDENT IN NEW YORK, TO QUIET THEIR CLAIMS TO LANDS IN KANSAS UPON THE SAME CONDITION AS THOSE GRANTED TO THE TONOWANDAS, BUT FOR THE REASONS GIVEN BY THE HON. COMMIDSIONER OF INDIAN AFFAIRS IN HIS ANNUAL REPORT FOR THE YEAR 1864, THE ATTEMPT WAS UNSUCCESSFUL. HE STATED THAT "DIRECTIONS HAVING BEEN GIVEN FOR THE SURVEY AND SALE OF THE LAND IN "KANSAS, BELONGING TO THE NEW YORK INDIANS, WITHOUT FIRST PROVI-

DING

''FOR THE EXTINCTION OF THEIR TITLE THERETO, THE INDIANS WERE OF
''COURSE DISSATISFIED AND MADE URGENT APPEALS FOR COMPENSATION
''OR INDEMNIFICATION FOR THIS SPOILATION. THEIR CLAIM BEING UN-
''DENIABLE AND JUST, MR. CHARLES E. MIX, CHIEF CLERK OF THIS OF-
''FICE, WAS APPOINTED, ON THE 5TH. MAY LAST, SPECIAL COMMISSIONER
''TO VISIT THOSE INDIANS FOR THE PURPOSE OF ENTERING INTO A CON-
''VENTION TO EXTINGUISH THEIR TITLE TO SAID LANDS AND PROVIDING
''FOR A JUST AND FAIR REMUNERATION. A FEW DAYS PREVIOUS TO HIS
''ARRIVAL AMONGST THEM, THE SENECAS HAD HELD THEIR ANNUAL ELEC-
TION FOR OFFICERS OF THEIR GOVERNMENT AND SELECTED, BY A SMALL
''MAJORITY, THE CANDIDATES OF A PARTY OPPOSED TO THOSE IN POWER.
''THE NEW OFFICERS TOGETHER WITH THE REPRESENTATIVES OF SOME OF
''THE OTHER BANDS, IN THE OPENING COUNSEL WITH THE INDIANS, TREAT-
''ED THE COMMISSIONERS WITH SO MUCH DISRESPECT AND INDIGNITY THAT
''INJUSTICE TO THE GOVERNMENT WHOSE REPRESENTATIVE HE WAS, HE CON-
''SIDERED IT TO BE HIS DUTY TO WITHDRAW FROM THE COUNCIL AND RE-
''TURN WITHOUG EFFECTING THE OBJECT OF HIS VISIT.''

NO DEFINITE ACTION WAS HAD TO RENEW THE NEGOTIATION UN-
TIL LATE IN THE YEAR 1868, WHEN ON 4 DECEMBER, ARTICLES OF AGREE-
MENT AND CONVENTION WERE ENTERED INTO BETWEEN THE UNITED STATES
AND THE SEVERAL TRIBES AND BANDS OF INDIANS RESIDING IN THE STAT
OF NEW YORK EXCEPTING THE TTONOWANDAS. THE FIRST ARTICLE IS
FOLLOWS:--

''THE SAID INDIANS, PARTIES HERETO, INCLUDING THE SENE-
''CAS, [EXCEPT THE TONOWANDA BAND OF SENECAS], PARTIES TO THE
''TREATY OF NOVEMBER 5, 1857; THE ONONDAGAS, ONONDAGAS, THE TUS-
''CARORAS, THE CAYUGAS, THE ONEIDAS, AND THE ST. REGIS, REPRESEN-
''TED BY THEIR NEWLY AUTHORIZED DELEGATES, DO HEREBY SURRENDER
''AND RELINQUISH TO THE UNITED STATES ALL CLAIMS SEVERALLY AND
''[IN COMMON, AS TRIBES AND BANDS OF INDIANS, TO THE LANDS WEST
''OF THE STATE OF MISSOURI, AND ALL RIGHT AND CLAIM TO BE REMOVED
''THITHER, AND FOR SUPPORT AND SUBSISTENCE AFTER SUCH REMOVAL,
''AND ALL OTHER CLAIMS AGAINST THE UNITED STATES UNDER THE TREA-
''TY BETWEEN THE UNITED STATES AND THE NEW YORK INDIANS, CONCLUDED
''ON THE 15TH. DAY OF JANUARY, 1838, AND THE TREATY WITH THE SENE-
''CAS CONCLUDED ON THE 20TH. DAY OF MAY, 1842. PROVIDED THAT
''THEIR RIGHTS TO THE RESERVATION AT PRESENT OCCUPIED BY THEM,
''SHALL NOT IN ANY WISE BE IMPAIRED BY THIS TREATY.''

THE REMAINING ARTICLES PROVIDED IN DETAIL FOR THE APPLI-
CATION OF THE CONSIDERATION TO BE GIVEN FOR THE RELINQUISHMENT
MADE BY INDIANS IN THE FIRST ARTICLE. [SEE SENATE CONFIDENTIAL
DOC. 40TH. CONGRESS, 3RD. SESSION, EXECUTIVE Y.]

THE TREATY WAS SUBMITTED TO THE SENATE FOR ITS CONSTI-
TUTIONAL ACTION ON THE 23RD. JANY. 1869 BY THE PRESIDENT OF THE
UNITED STATES, AND REFERRED ~~TO~~ ON THE 28TH. OF THAT MONTH TO THE

COMMITTEE ON INDIAN AFFAIRS, WHO MADE THEIR REPORT TO THE SENATE THRO SENATOR BUCKINGHAM, ON 3RD. MAY, 1870, ADVERSE TO ITS RATIFICATION. THAT REPORT, AFTER RECITING THE VARIOUS STIPULATIONS OF THE TREATY, PROCEEDS TO EXAMINE THE TITLE WHICH THE NEW YORK INDIANS HAVE IN THE LANDS, WHICH THEY PROPOSE TO RELINQUISH TO THE GOVERNMENT, AND CONCLUDES AS FOLLOWS:--

"BY THE TREATY BETWEEN THE UNITED STATES AND THE NEW "YORK INDIANS, CONCLUDED JANY.15, 1838, THE NEW YORK RELINQUISHED TO THE UNITED STATES ALL LANDS AT GREEN BAY, EXCEPTING A TRACT UPON "WHICH A PART OF THE NEW YORK INDIANS THEN RESIDED, FOR WHICH "THE UNITED STATES SET APART WEST OF THE MISSOURI, AS A PERMA-"NENT HOME FOR ALL THE NEW YORK INDIANS WHO HAD NOT PERMANENT "HOMES, ONE MILLION EIGHT HUNDRED AND TWENTY-FOUR THOUSAND ACRES OF LAND, BEING THREE HUNDRED AND TWENTY ACRES FOR EACH MEMBER OF "THE TRIBE, AND AGREED TO APPROPRIATE $400,000 TO BE APPLIED, "FROM TIME TO TIME, TO AID IN REMOVING TO THEIR HOMES, AND SUP-"PORTING THEMSELVES FOR THE FIRST YEAR AFTER THEIR REMOVAL, TO "ASSIST THEM IN EDUCATION, AND IN BEING TAUGHT TO CULTIVATE "THEIR LANDS, IN ERECTING MILLS, PURCHASING DOMESTIC ANIMALS, FARMING UTENSDLS, AND ACQUIRING A KNOWLEDGE OF THE MECHANIC ARTS. "BUT IT WAS AGREED THAT THOSE WHO DID NOT ACCEPT AND REMOVE "WITHIN FIVE YEARS OR SUCH OTHER TIME AS THE PRESIDENT MIGHT AP-"POINT, SHOULD FORFEIT ALL INTEREST IN THE LANDS. IN VIEW OF

"THESE FACTS, THE COMMITTEE ARE OF THE OPINION THAT NO RIGHT TO
''LAND IN WISCONSIN AND WEST OF THE MISSOURI WAS EVER VESTED IN
''THE NEW YORK INDIANS, EXCEPT THE RIGHT OF OCCUPANCY; THAT AN
''EQUIVALENT FOR THE AMOUNT PAID BY THEM TO THE MENOMONEES FOR
''LAND IN WISCONSIN WAS RECEIVED BY THOSE WHO REMOVED TO AND SET-
TLED UPON THOSE LANDS; THAT THE INDIANS WHO NEVER REMOVED TO
''THE LANDS SET APART FOR THEIR PERMANENT RESIDENCE IN WISCONSIN
''AND WHO NEVER REMOVED TO AND BECAME LOCATED ON LANDS SET APART
''FOR THEM WEST OF MISSOURI, DID NOT COMPLY WITH THE REQUIREMENTS
''OF THE TREATIES, AND ARE NOT ENTITLED TO ANY INTEREST IN THE
''LANDS NOR TO THEIR PROCEEDS. ALSO THAT THE TREATY CONCLUDED
WITH THE TONOWANDA BAND NOVEMBER 5, 1857, AUTHORIZED THE PAYMENT
OF MONEYS TO THE MEMBERS OF THAT BAND, TO WHICH THEY HAD NO CLAIM
''UNDER FORMER TREATIES, AND SHOULD NOT BE REGARDED AS A PRECEDENT
BY WHICH THE GOVERNMENT SHOULD BE BOUND OR GUIDED. THEY THERE-
''FORE REPORT ADVERSELY UPON THE RATIFICATION OF THE TREATY.''
[SEE SENATE REPORT, NO. 145, 41ST. CONGRESS, 3D. SESSION]

WITHOUT ATTEMPTING TO ASSAIL THE CORRECTNESS OF THE CONCLUSIONS ARRIVED AT BY THE HONORABLE COMMITTEE ON INDIAN AFFAIRS OF THE SENATE IN REPORT REFERRED TO, IT IS NOT DEEMED AS BEING IMPROPER TO SUGGEST THAT THEY MAY HAVE ERRED, UNINTENTIONALLY OF COURSE, STATING FACTS UPON WHICH THEIR CONCLUSIONS WERE BASED. FOR INSTANCE, ON PAGE 4, IT IS REPRESENTED THAT "ON 3

SEPTEMBER 1836 THE MENOMONEES AGAIN CEDED TO THE UNITED STATES THE RESEDUE OF THE LAND SOLD TO THE SIX NATIONS IN 1821 AND LANDS CEDED TO THE SIX NATIONS AND OTHERS IN 1822, AND ALL THE LANDS OWNED BY THEM. THE SIX NATIONS ASSENTED TO THIS AGREEMENT, AND REQUESTED THAT THE TREATY BE CARRIED INTO EFFECT.''

NOW BY REFERRING TO SAID TREATY (STATUTES AT LARGE VOL. 7, PAGE 506) ARTICLE FIRST IN WHICH THE BOUNDARIES OF THE CESSION MADE TO THE U. S., ARE DESCRIBED, WILL BE FOUND THE FOLLOWING LANGUAGE:-- ''SAVING AND RESERVING OUT OF THE DISTRICT OF COUNTRY ''ABOVE CEDED AND DESCRIBED ALL THAT PART OF THE FIVE HUNDRED ''THOUSAND ACRE TRACT, GRANTED BY THE TREATIES BETWEEN THE MENOMON- ''EES AND THE UNITED STATES, MADE ON 8 DAY OF FEBY.A.D.1831, AND ''ON THE TWENTY SEVENTH DAY OF OCTOBER A. D. 1832, WHICH MAY BE SITUATED WITHIN THE BOUNDARIES HEREINBEFORE DESCRIBED.'' WAS NOT THE 500,000 ACRES REFERRED TO SAVED AND RESERVED FROM THE CESSION, THE TRACT GRANTED TO THE NEW YORK INDIANS?

AGAIN, BY REFERRING TO THE ~~MENOMONEES~~ TREATIES OF 1831 AND 1832 IT WILL BE OBSERVED THAT THE CLAUSE IN THE FORMER TREATY, LIMITING THE GRANT ONLY TO THOSE ''WHO MAY REMOVE TO AND SETTLE ''UPON THE SAME, WITHIN THREE YEARS FROM THE DATE OF THIS AGREE- ''MENT.'' WAS ESSENTIALLY MODIFIED SO AS TO MAKE <u>UNLIMITED THE TIME OF REMOVAL</u>. AND SETTLEMENT UPON THESE LANDS BY THE NEW YORK INDIANS, BUT TO LEAVE THE MATTER DISCRETIONARY WITH THE PRESIDENT OF THE UNITED STATES. (SEE PREAMBLE TO AGREEMENT OF 17 BENY.1871

ON PAGE 346, OF VOL.7 STATUTES AT LARGE?

DID THE PRESIDENT OF THE UNITED STATES EVER EXERCISE HIS DISCRETION IN THE PREMISES BY FIXING ANY PERIOD OF TIME WITHIN WHICH THE INDIANS RESIDING IN THE STATE OF NEW YORK SHOULD REMOVE TO WISCONSIN AS A CONDITION PRECEDENT TO AVAILING OF THE GRANT ?

DID NOT THE TREATY OF 1838 AND THAT OF 1842 VARY THE STIPULATIONS OF FORMER TREATIES SO FAR THAT REMOVAL WEST OF THE MISSISSIPPI WAS IN LIEU OF REMOVAL TO WISCONSIN, THE INDIANS RELINQUISHING THEIR CLAIMS TO THE LAND IN THAT STATE FOR LAND AND OTHER BENEFICIAL OBJECTS TO BE FURNISHED THEM WEST OF SAID MISSISSIPPI RIVER?

THE 3RD. ARTICLE OF THE TREATY OF 1838 PROVIDES THAT SUCH OF THE TRIBES OF THE NEW YORK INDIANS AS DO NOT ACCEPT AND AGREE TO REMOVE TO THE COUNTRY SET APART FOR THEIR NEW HOMES WITHIN FIVE YEARS, OR SUCH OTHER TIME AS THE PRESIDENT MAY FROM TIME TO TIME APPOINT, SHALL FORFEIT ALL INTEREST IN THE LANDS SO SET APART TO THE UNITED STATES IN THIS CONNECTION REFERENCE IS AGAIN MADE TO DECISION OF SUPREME COURT TO BE FOUND IN HOWARD VOL.10, PAGE 366 AND ALSO TO ANOTHER SIMILAR DECISION TO BE FOUND IN HOWARD 21, PAGE.366, SHOWING MOST CONCLUSIVELY THAT THE PRESIDENT HAD NEVER APPOINTED ANY TIME WITHIN WHICH THEY WERE TO REMOVE NOR HAS CONGRESS PLACED AT HIS DISPOSAL THE REQUISITE MEANS TO ACCOMPLISH IT.

AGAIN HAS NOT THE GOVERNMENT OF THE UNITED STATES, BY ACTS OF THE EXECUTIVE AND BOTH BRANCHES OF THE LEGISLATURE IN THE CASE OF THE TONOWANDA SENECAS, ANNULLED THAT PROVISION?

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A. ''BROTHERS OF THE SIX NATIONS;
''THE MEMORIAL WHICH YOU HAVE SENT TO YOUR GREAT FATHER, THE PRES-
''IDENT, BY YOUR FRIENDS, GENERAL PORTER, AND MR GRANGER, HAS
''BEEN PRESENTED BY THEM. IN THIS MEMORIAL YOU MAKE KNOWN TO
''YOUR GREAT FATHER YOUR DESIRE TO REMOVE FROM YOUR PRESENT SET-
''TLEMENTS IN NEW YORK, WITH A VIEW TO SETTLE UPON LANDS IN THE
''WEST, AND WISH TO BE INFORMED WHETHER THE GOVERNMENT WILL CON-
''SENT TO IT; WHETHER, IF YOU OBTAIN A SEAT UPON THE LANDS OF
''YOUR WESTERN BRETHEREN, YOUR TITLE WILL BE ACKNOWLEDGED BY THE
''GOVERNMENT, IN THE SAME MANNER AS IT NOW DOES THOSE FROM WHOM
''YOU MAY RECEIVE IT; AND WHETHER YOUR REMOVAL WILL, IN ANY MAN-
''NER, CHANGE THE RELATIONS NOW SUBSISTING BETWEEN YOUR SEVERAL
''TRIBES AND THE GOVERNMENT; WHETHER EXISTING TREATIES WILL
''STILL REMAIN IN FORCE, AND THE ANNUITIES PAID AS HERETOFORE.
''BROTHERS: YOUR GREAT FATHER, THE PRESIDENT, HAVING
''DULY CONSIDERED ALL YOUR REQUESTS, AND E TREMELY DESIROUS OF
''GIVING TO HIS CHILDREN OF THE SI NATIONS A PARTICU LAR MARK OF
''HIS FRIENDSHIP, AND ATTENTION TO THEIR INTERESTS, HAS DECIDED
''TO INFORM THE SACHEMS OF THE SI NATIONS. THAT ALL THEIR REQUESTS
''A BE GRANTED. YOUR GREAT FATHER CONSENTS TO YOUR REMOVAL
''AND SETTLEMENT WITH YOUR BRETHEREN IN THE WEST, AND DECLARES
''THAT YOUR REMOVAL SHALL IN NO MANNER CHANGE YOUR FRIENDLY RELA-
''TIONS, AND EXISTING TREATIES, WITH THE GOVERNMENT, AND THAT
''YOUR ~~SUBSTEMS~~ ANNUITIES SHALL BE PAID AS HERETOFORE. HE ALSO
''AGREES TO ACKNOWLEDGE THE TITLE TO SUCH LANDS AS YOU SHALL OB-
''TAIN, BY GRANT, OR OTHERWISE, FROM YOUR WESTERN BRETHEREN, IN
''THE SAME MANNER AS HE ACKNOWLEDGES THE TITLE OF ALL FRIENDLY
''INDIAN TRIBES.
''BROTHERS: YOUR GREAT FATHER, THE PRESIDENT, HAS
''ALSO DIRECTED ME TO ADVISE YOU TO DEFINE THE LIMITS OF THE
''SEATS WHICH YOU ARE ABOUT TO OBTAIN FROM YOUR BRETHEREN IN THE
''WEST, AND FURNISH THE GOVERNMENT WITH ITS MEETS AND BOUNDS,

SO THAT IN TREATIES TO BE HELD HEREAFTER WITH OTHER TRIBES, YOUR
"LANDS MAY NOT BE GRANTED AWAY BY THEM. THE AGENT OF THE UNI-
"TED STATES WILL BE INSTRUCTED TO ASSIST YOU IN DEFINING, AND IF
"NECESSARY, IN MAKING THE LIMES OF YOUR NEW POSSESSIONS.

"BROTHERS! IN GRANTING ALL YOUR REQUESTS, YOUR GREAT
"FATHER, THE PRESIDENT, HAS NOT BEEN UNMINDFUL OF THE FRIENDSHIP
"WHICH YOU HAVE UNIFORMLY MANIFESTED TO YOUR WHITE BRETHREN, AND
"HE CONFIDENTLY EXPECTS THAT THE SAME FRIENDSHIP WILL CONTINUE
"TO DIRECT ALL YOUR ACTIONS.

"HE CALCULATES MUCH UPON THE INFLUENCE WHICH YOUR PAC-
"IFIC AND FRIENDLY INTERCOURSE WITH YOUR RED BRETHREN IN THE
"WEST, WILL HAVE UPON THEIR RELATIONS WITH THE UNITED STATES, IN
"AVOIDING ALL HOSTILITIES IN FUTURE.

"GIVEN UNDER MY HAND AND THE SEAL OF THE WAR OFFICE,
"THIS TWELFTH DAY OF FEBRUARY, ONE THOUSAND EIGHT HUNDRED AND
"SIXTEEN."

L. S. WM. H. CRAWFORD.

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B.

PRESIDENT'S APPROVAL.

THE WITHIN AGREEMENT ENTERED INTO BETWEEN THE SIX NATIONS, THE ST. REGIS, STOCKBRIDGE AND MUNSEE NATIONS OF THE ONE PART AND THE MENOMONEES AND WINNEBAGOS OF THE OTHER, IS APPROVED WITH THE EXPRESS UNDERSTANDING, THAT THE LANDS THEREBY CONVEYED TO THE SIX NATIONS, THE ST. REGIS, STOCKBRIDGE AND MUNSEE NATIONS ARE TO BE HELD BY THEM IN THE SAME MANNER AS THEY WERE PREVIOUSLY HELD BY THE MENOMONIES AND WINNEBAGOS.

FEBRUARY 9, 1820. JAMES MUNROE.

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FROM C.

EXTRACT OF A LETTER FROM THE SECRETARY OF WAR TO SOLOMON HENDRICK, DEPUTY FROM THE STOCKBRIDGE NATION, DATED 13 FEBY.

I HAVE RECEIVED YOUR COMMUNICATIONS OF THE FIFTH INST., AND RETURN HEREWITH, THE ORIGINAL TREATY CONCLUDED AT GREEN BAY BETWEEN THE DEPUTIES FROM THE STOCKBRIDGE AND THE OTHER TRIBES OF THE SIX NATIONS, AND THE MENOMONEES AND WINNEBAGOES, ENDORSED BY THE PRESIDENT APPROVED. I REGRET THAT ANY PORTION OF THE SIX NATIONS IS DISSATISFIED WITH THE TREATY, BUT AS ONE OF THE CAUSES OF DISSATISFACTION APPEARS TO BE THE DISTANCE OF THE COUNTRY CEDED THEREBY FROM GREEN BAY, AND MAY BE OBVIATED BY PROCURING AN

EXTENSION OF THE CESSION AS PROPOSED, THE PERMISSION WHICH IS SOLICITED FOR ANOTHER DEPUTATION FROM THE STOCKBRIDGE AND OTHER TRIBES OF THE SIX NATIONS, TO VISIT THE COUNTRY AGAIN FOR THAT PURPOSE, IS GRANTED.

THE COUNTRY LIKE THE SIX-NATIONS HAVE, OR MAY ACQUIRE FROM THE MENOMONIES AND WINNEBAGOES, WILL BE HELD BY THEM IN THE SAME MANNER AS IT WAS BY THE INDIANS WHO PREVIOUSLY OWNED IT. THE DEPUTIES THAT MAY BE APPOINTED TO MAKE THE ARRANGEMENT (NOT EXCEEDING SIX IN NUMBER) WILL BE PROVIDED WITH LETTERS SIMILAR TO THOSE GIVEN TO THEM LAST YEAR; AND ORDERS WILL BE GIVEN FOR THEM TO BE FURNISHED WITH ONE RATION EACH WHILE ON THEIR JOURNEY, AND ENGAGED IN EFFECTING THE OBJECT OF THEIR VISIT. * * * * * GOVERNOR CASS HAS BEEN INSTRUCTED TO GIVE THE INDIANS WHO MAY EMIGRATE FROM THE STOCKBRIDGE AND OTHER TRIBES OF THE SIX-NATIONS EVERY FACILITY IN HIS POWER IN FIXING THEMSELVES UPON THE LANDS THEY HAVE ACQUIRED OF THE MENOMONIES AND WINNEBAGOES.

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D.

PRESIDENT'S APPROVAL.

THE FOREGOING INSTRUMENT IS APPROVED, SO FAR AS IT CONVEYS TO THE STOCKBRIDGE, ONEIDA, TUSCARORA, ST. REGIS AND MUNSEE TRIBES, OR NATIONS OF INDIANS, THAT PORTION OF THE COUNTRY THEREIN DESCRIBED, WHICH LIES BETWEEN STURGEON BAY, GREEN BAY, FOX RIVER, THAT PART OF THE FORMER PURCHASE MADE BY SAID TRIBES OR NATIONS OF INDIANS OF THE MENOMONIES AND WINNEBAGO INDIANS ON THE 8TH. AUGUST, 1821, WHICH LIES SOUTH OF FOX RIVER, AND A LINE DRAWN FROM THE SOUTH-WESTERN EXTREMITY OF SAID PURCHASE TO THE HEAD OF STURGEON BAY, AND NO FURTHER; THAT QUANTITY BEING DEEMED SUFFICIENT FOR THE USE OF THE FIRST BEFORE MENTIONED TRIBES AND NATIONS OF INDIANS. IT IS TO BE UNDERSTOOD, HOWEVER, THAT THE LANDS, TO THE CESSION OF WHICH TO THE TRIBES OR NATIONS AFORESAID, THE GOVERNMENT HAS ASSENTED, ARE TO BE HELD BY THEM IN THE SAME MANNER, AS THEY WERE HELD BY THE ~~MENOMONIES~~ MENOMONIES, PREVIOUS TO CONCLUDING AND SIGNING THE AFOREGOING INSTRUMENT, AND THAT THE TITLE WHICH THEY HAVE ACQUIRED IS NOT TO INTERFERE IN ANY MANNER WHATEVER, WITH THE LANDS PREVIOUSLY ACQUIRED OR OCCUPIED BY THE GOVERNMENT OF THE UNITED STATES, OR ITS CITIZENS.

GIVEN UNDER MY HAND, AT THE CITY OF WASHINGTON, THIS 13TH. DAY OF MARCH, IN THE YEAR OF OUR LORD, 1823.

JAMES MUNROE.

E.

GENERAL CIRCULAR TO INDIAN AGENTS AND OFFICERS OF THE GOVERNMENT IN THE MICHIGAN TERRITORY.

THE REV. ELEAZOR WILLIAMS, WHO BEARS THIS, AND HIS COMPANIONS, FORMING A PARTY OF SEVEN, VISIT THE MICHIGAN TERRITORY AS DELEGATES FROM THE STOCKBRIDGE TRIBE, AND FROM THE ONEIDA, AND OTHER TRIBES OF THE SIX-NATIONS OF INDIANS, RESIDING IN THE STATE OF NEW YORK, FOR THE PURPOSE OF OBTAINING FROM THE MENOMONIES AND WINNEBAGOES IN THE NEIGHBORHOOD O. GREEN BAY AN EXTENSION OF THE CESSION OF LAND, WHICH WAS MADE BY THE LATTER TO THE FORMER TRIBES IN A TREATY CONCLUDED BETWEEN THEM 18TH AUGUST 1821; WHICH HAS RECEIVED THE SA CTION OF THE PRESIDENT OF THE UNITED STATES. X ~~THEXEEN~~ THE OBJECT OF THEIR VISIT IS APPROVED, AND THEY ARE HEREBY RECOMMENDED TO THE ATTENTION AND KINDNESS OF ALL OFFICERS OF GOVERNMENT.

J. C. CALHOUN,

DEPARTMENT OF WAR, MAY 8, 1822.

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PREFACE.

It is known to you that

THE principal design in preparing the annexed statement, is to show the Seneca Indians in the State of New York, the character of the title to the lands they occupy under the decisions of the Courts of the United States, and the Courts of the State of New York. ~~By these decisions it is shown that~~ the Government considers all Indians its wards, and as such, under its special protection and oversight. It has charge of their funds, and the annuities they are entitled to are annually paid to them by its officers appointed for the purpose.

The history of the origin of the right which certain citizens of the United States have to extinguish, by purchase, the title of the Seneca Indians to their reservations, *when they are willing to sell them*, has been derived from authentic sources, and is printed, in order to give them a clear understanding of that right, and the legal decisions respecting it. It appears from the latter, as well as the articles of the treaty of 1794, quoted herein, that the Indian occupants cannot be deprived of their lands without their consent, which are "*to remain theirs until they choose to sell them*," and that they are not subject to taxation of any kind. The extracts from laws and decisions of courts, which are added, contain information respecting their rights, which should also be understood.

to

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The draft of a Memorial, and the Act which it is proposed Congress shall be requested to pass, are printed in order to give an opportunity for all interested in ~~these decisions~~ to examine and carefully consider ~~them~~, before ~~it is~~ they are presented for the action of that body.

Brief Statement, &c.

THE RIGHT OF THE INDIANS TO THE LANDS THEY OCCUPY, AND THE CHARACTER OF THE TITLE BY WHICH THEY HOLD THEM.

On the discovery of this continent the Europeans were eager to appropriate as much of it for their own use as they could acquire. While they respected the right of the natives, as occupants, they asserted the ultimate right to be in themselves. As a consequence, the Indians, the natives, were deemed to have had only the usufruct or possessory title. The ultimate fee was claimed to be in the sovereign whose subjects discovered the country. In accordance with that principle, grants were made by Great Britain to its colonies in America. By the treaty which concluded the war of our revolution, Great Britain relinquished all claim, not only to the government, but to the proprietary and territorial rights which it had acquired in the limits of the United States. By this treaty, the powers of government, and the right to the soil which had previously been in Great Britain passed definitely to the States. United States Statutes at Large, vol. 7, page 1 to 11.

Chancellor Kent in his Commentaries, vol. 1, page 230, says: "The title of the European nations, and which passed to the United States, to this immense territorial empire was founded on discovery and conquest, and by the European customary law of nations, prior discovery gave the title to the soil, subject to the possessory right of the natives, and which occupancy was all the right that European conquerors and discoverers, and which the United States as

succeeding to their title, would admit to reside in the native Indians. The principle is, that the Indians are to be considered merely as occupants, to be protected while in peace in the possession of their lands; but to be deemed incapable of transferring the absolute title to any other than the sovereign of the country." "The Constitution gives to Congress the power to dispose of and to make all needful rules and regulations respecting the territory or other property belonging to the United States, and to admit new States into the Union."

In the case of the *Cherokee Nation* vs. *The State of Georgia*, in the Supreme Court of the United States, it was decided that "Indians have rights of occupancy to their lands *as sacred as the fee simple, absolute title of the whites*, but they are only rights of occupancy, incapable of alienation or being held by any other than common right without permission from the government." 8 Wheaton, page 592.

"The nature of the Indian title to land on this continent, throughout its whole extent," it is said, "was most ably and elaborately considered in the case of *Johnson* vs. *McIntosh*, leading to conclusions satisfactory to every jurist, clearly establishing that from the time of discovery under the royal government, the Colonies, the States, the Confederacy and this Union, their tenure was occupancy, their rights occupancy and nothing more; that the ultimate absolute fee, jurisdiction, and sovereignty was in the government, subject only to such rights—that grants vested soil and dominion and the powers of government, whether the land granted was vacant or occupied by Indians." 8 Wheaton, pages 543, 571. In *Goodell* v. *Jackson*, 20 Johnson, New York Reports, page 694, the ~~judge~~ Chancellor (1823) says: "In my view of the subject they, the Indians, have never been regarded as citizens or members of our body politic within the contemplation of the Constitution. They have always been, and are still considered by our law as dependent tribes, governed by their own usages and chiefs, but placed under our protection and subject to our coercion, so far as the public safety required it, and no further."

The origin of the pre-emption right to the Cattaraugus and Allegheny reservations, now held by the Ogden Land Company.

Soon after peace was declared in 1783, a controversy arose between the States of Massachusetts and New York respecting the title to the western part of the latter State, comprising what was called the Genesee country. Massachusetts claimed this territory under the grant of King James the 1st to the Plymouth Company. New York claimed it under the grant of Charles the 2nd, to the Duke of York, in 1663. The controversy was brought under the cognizance of Congress in pursuance of the articles of confederation, and a court was instituted to decide it, but the dispute was finally settled by a convention between the two States, concluded at Hartford, Connecticut, on the 16th of the 12th month, 1786. It was agreed by the convention that New York should have the right of government and jurisdiction, and Massachusetts the right of property in the disputed territory, which right was mutually granted and released by each State to the other by an agreement signed by ten commissioners, four of whom were appointed by Massachusetts and six by New York.*

By virtue of this agreement two tracts were ceded to Massachusetts; one tract comprehended all that part of the State lying west of a line drawn through Great Sodus Bay on the south side of Lake Ontario, and running thence southerly to the northerly boundary of Pennsylvania, except a strip one mile wide on the east side of the river Niagara, and the islands in that stream. Its length on the south side was about 140 miles, and on the north about 100 miles. Its breadth on the east from Lake Ontario to Pennsylvania was about 87 miles. The breadth was nearly uniform westwardly as far as Niagara river, and the northeasterly extremity of Lake Erie. This tract contained about 6,144,000 acres. The whole tract was formerly called Genesee. The other tract, called the Boston Ten Towns contained 230,400 acres, and is situated between

* See Journal of Congress, edition of 1823, vol. 4, page 787.

then
was entitled to

Chenango river and Owego creek, being in the counties of Broome and Tioga. The area of these cessions is said to have been nearly one-fourth of that of the State. By the first article of the agreement or compact, the Commonwealth of Massachusetts ceded to the State of New York all her claim, right and title to the government, sovereignty and jurisdiction of the lands and territories therein particularly specified, which included the two tracts of land now occupied by the Seneca nation of Indians as well as several other reservations which have since been disposed of. By the 2nd article, New York "ceded, granted, released, and confirmed to Massachusetts, and to the use of the Commonwealth, their grantees and the heirs and assigns of such grantees forever, the *right of pre-emption of the soil* from the native Indians, and all other the estate, right, title and property (the right and title of government, sovereignty and jurisdiction excepted) which the State of New York hath of and in or to *the described lands.*" By the 3rd article Massachusetts "ceded, granted, released and confirmed to the State of New York and their grantees and the heirs and assigns of such grantees forever, the right of pre-emption of the soil from the native Indians, and all other the estate, right, title and property which the Commonwealth of Massachusetts hath of in or to *the residue of the lands and territory* so claimed by the State of New York as herein before stated and particularly specified." The 10th article is as follows: "The Commonwealth of Massachusetts *may grant the right of pre-emption* of the whole or any part of the said lands and territories to any person or persons, who by virtue of such grant shall have good right to extinguish by purchase the claims of the native Indians. Provided, however, that no purchase from the native Indians by any such grantee shall be valid, unless the same shall be made in the presence of and approved by a superintendent to be appointed for such purpose by the Commonwealth of Massachusetts, and having no interest in such purchase, and unless such purchase shall be confirmed by the Commonwealth of Massachusetts." The convention authorized Massachusetts to hold treaties with the native Indians

relative to the property, or right of soil of the lands and territory thereby ceded to her. It was also agreed "that the lands so ceded, granted, released and confirmed to the Commonwealth of Massachusetts, or such part thereof as shall from time to time be and remain the property of the Commonwealth of Massachusetts, shall during the time that the same shall so be and remain such property, be free and exempt from all taxes whatsoever, and that no general or State tax shall be charged on or collected from the lands thereafter to be granted by the Commonwealth of Massachusetts, or on the occupants or proprietors of such lands, until fifteen years after such confirmation as is hereinafter mentioned of such grants shall have expired, but that the lands so to be granted, and the occupants thereof shall, during the said period, be subject to town and county charges or taxes only." There is a provision also, that copies of the grants and of the acts of confirmation should be deposited in the office of the Secretary of the State of New York, and be recorded there without any charges or fees of office whatsoever, and a failure to have them so recorded is to render them void.

Massachusetts sold the large tract, containing 6,144,000 acres, to Oliver Phelps and Nathaniel Gorham in 1788, for $1,000,000 dollars, payable in a kind of scrip called consolidated securities, then much below par; and the other to John Brown for $3,300.* Phelps and Gorham failed to comply with their contract for the whole of the large tract in consequence of the value of the scrip rising to par, and that which they failed to pay for was subsequently sold to Robert Morris in 1791.† The Holland Land Company acquired their title to the tract of land called the Holland purchase within the limits of which are the Allegheny and Cattaraugus reservations, from Robert Morris. At the time of the convention between New York and Massachusetts, in the 12th

*McCauley's History of New York and New York Gazeteer.

†A statement in the New York Gazeteer, page 52, of the subdivision of the land ceded by Massachusetts, makes the aggregate 7,615,970 acres. The Holland Land Company are said to have become the purchasers of 3,600,000 acres.

It is stated in the trust of Ogden vs Lee that Morris contracted to sell the ceded lands to Saml Ogden who assigned the contract to Robt Morris - 1791

month, 1786, the Seneca Indians, one of the tribes of the Six Nations, claimed the exclusive right to the lands whereof the pre-emption was ceded to Massachusetts. The Mohawks having removed to Canada, and the lands occupied by the Onondagas, Oneidas, Cayugas, and other tribes of the Six Nations not being included in the cession made by Massachusetts, the right of the pre-emption as to the lands of these latter designated tribes remained in the State of New York, and Massachusetts, in the 3rd article of the agreement, as before mentioned, relinquished all right, title and claim thereto.

The treaty between the United States and the Six Nations, concluded "November 11th, 1794," see United States Statutes at Large, vol. 7, page 44, contains the following clause:

"Article 2nd. The United States acknowledge the lands reserved to the Oneida, Onondaga and Cayuga nations in their respective treaties with the State of New York to be their property; and the United States will never claim the same nor disturb them or either of the Six Nations, nor their Indian friends residing thereon, and united with them in the free use and enjoyment thereof, but the said reservations shall remain theirs until they choose to sell the same to the people of the United States who have the right to purchase."

The 3rd article of that treaty after specifying the boundaries of the lands of the Seneca Indians contains the following stipulations, viz: "Now the United States acknowledge all the land within the above mentioned boundaries to be the property of the Seneca nation, and the United States will never claim the same nor disturb the Seneca nation, nor any of the Six Nations or of their Indian friends residing thereon and united with them in the free use and enjoyment thereof, but it shall remain theirs until they choose to sell the same to the people of the United States who have the right to purchase."

In vol. 7, United States Statutes at Large, pages 601–603, will be found the contract entered into under the sanction of the United States between Robert Morris and the Seneca nation of Indians "September 15th, 1797," for the extin-

guishment of the Indian title, in which the tracts then and previously sold by them to the assignees of the State of Massachusetts were indicated, leaving nine small reservations undisposed of so far as the native right was involved.*

The Holland Land Company, by deed dated "September 12th, 1810," sold and conveyed to David A. Ogden their right of pre-emption to six of the tracts reserved to the Seneca Indians by the above treaty of 1797, including the Allegheny and Cattaraugus reservations, in all, 197,835 acres, for fifty cents per acre. D. A. Ogden afterwards sold the right he had thus acquired, in shares to different individuals, he holding the legal title as trustee for all the parties interested. He subsequently resigned the trust, and the legal title was transferred to Thos. Ludlow Ogden, of the city of New York, and Joseph Fellows of Geneva, on behalf of all the associates. The capital of the Ogden Land Company is now represented by twenty shares, fifteen of which belong to estates, three to individuals, and two are held in trust.

Decisions of the Supreme Court of New York in reference to the pre-emption right to the lands belonging to the Seneca Indians.

In *Fellows* vs. *Lee*, see Denio's Reports, page 628, the court held that "the title of the native Indians to their lands is an absolute ownership. The right of pre-emption of lands in the western part of this State ceded to Massachusetts by the convention of 1786, *was simply a right to purchase the lands from the Indians when they chose to sell them.* The grantee of the pre-emption right cannot maintain trover for saw logs cut on such lands by the Indians and sold to the defendant." In *Ogden* vs. *Lee*, New York Reports, Hill, page 546, the court

* The Indians sold to Phelps and Gorham 2,225,000 acres of land for a mere "nominal" consideration. For all the rest of the large territory purchased by Robert Morris they got but 100,000 dollars, probably not receiving altogether over three cents an acre for it.

held that "the Seneca nation of Indians have never parted with the title to the lands on which the timber was cut. Their right is as perfect now as it was when the first European landed on this continent, with the single exception that they cannot sell without the consent of the government. The right of occupancy to them and their heirs forever, remains wholly unimpaired. They are not tenants of the State nor of its grantees. They hold under their own original title. The plaintiffs have acquired nothing *but the right to purchase whenever the owner may choose to sell.* In the meanwhile, or until the tribe shall become extinct, the Seneca Indians will remain the rightful lords of the soil. They have cut and sold their own timber, and I see no principle upon which the plaintiffs can have action either against them or their vendees."

DECISIONS OF THE SUPREME COURT OF THE UNITED STATES IN REFERENCE TO THE RIGHT OF STATES TO TAX THE LANDS OF INDIANS, INTRUSIONS ON INDIAN LANDS, &C.

In the case of the *New York Indians*, 5 Wallace, page 761, the court held, "Until the Indians have sold their lands and removed from them in pursuance of the treaty stipulations, they are to be regarded as still in their ancient possessions, and are in under their original rights, and entitled to the undisputed enjoyment of them." This was also the effect Judge Nelson said, of the decision in the case of *Fellows* vs. *Blacksmith*, 19 Howard, 366. The Judge further said: "*All* agree that the Indian right of occupancy creates an indefeasible title to the reservations, that may extend from generation to generation, and will cease only by the dissolution of the tribe, or their consent to the party possessed of the right of pre-emption." In another case, *Kansas Indians*, 5 Wallace, page 737, it

is said: "Until they are clothed with the rights, and bound to all the duties of citizens, they enjoy the privilege of total immunity from State taxation," again; "conferring rights and privileges on these Indians cannot affect their situation, which can only be changed by treaty stipulations, or a voluntary abandonment of their tribal organizations. As long as the United States recognizes their national character they are under the protection of treaties and the laws of Congress, and their property is withdrawn from the operation of State laws." In the same case the Judge remarked: "It is argued because the Indians seek the courts of Kansas for the preservation of rights, and the redress of wrongs, sometimes voluntarily, and in certain specified cases, by direction of the Secretary of the Interior, that they submit themselves to all the laws of the State. But the conduct of Indians is not to be measured by the same standard which we apply to the conduct of other people. Kansas is not obliged to confer any right on them. Because a sound policy may dictate the wisdom of treating them in some respects as she treats her own citizens, and thereby weaning them from the ancient attachment to their own customs, they are none the less a separate people, under the protection of the general government. This policy may eventually succeed in disbanding the tribe, but until it does, the Indians cannot look to Kansas for protection, nor can the general laws of the State taxing real estate within its limits reach their property."

In an action under "An Act of the State of New York respecting intrusion on Indian lands," passed "March 31, 1821," brought by writ of error before the Supreme Court of the United States, Judge Grier says: "This act made it unlawful for any person other than Indians, to settle and reside upon lands belonging to or occupied by any tribe of Indians, and declared void all leases, contracts and agreements made by any Indians, whereby any other than Indians should be permitted to reside on such lands, and if any persons should settle or reside on any such lands, contrary to the act, it was made the duty of any judge of any county court where such lands were situated, on complaint made to him and due proof

of such residence or settlement, to issue his warrant, directed to the sheriff commanding him to remove such persons."*

"The statute in question is a police regulation for the protection of the Indians from intrusion of the white people, and to preserve the peace. It is the dictate of a prudent and just policy. Notwithstanding the peculiar relation which these Indian nations hold to the Government of the United States, the State of New York had the power of a sovereign over their persons and property, so far as it was necessary to preserve the peace of the commonwealth, and protect these feeble and helpless bands from imposition and intrusion. The power of a State to make such regulations to preserve the peace of the community is absolute, and has never been surrendered. The act is therefore not contrary to the Constitution of the United States. Nor is this statute in conflict with any act of Congress, as no law of Congress can be found which authorizes white men to intrude on the possession of Indians."

"We are of opinion, therefore, that this statute and the proceedings in this case are not in conflict with the treaty in question, or with any act of Congress, or with the Constitution of the United States." State of Ga. v. Tassels 21 Howard p. 366.

The authority under which the State of New York and individual citizens of the United States entered into contracts or agreements for the extinction of the Indian title to land, will be found in the 4th section of an act to regulate trade and intercourse with the Indians, approved "22d July, 1790;" Statutes at Large, vol. 1, page 138, and section 8 of an act of similar title, approved "1st March, 1793." *Ib.* page 330.

For act to regulate trade & intercourse with the Indian tribes & for preventing frauds on the parties — Statute June 30 1834

The law as it now exists, is as follows: section 12. "That no purchase, grant, lease or other conveyance of land, or of any title or claim thereto from any Indian nation or tribe of Indians, shall be of any validity in law unless the same be made by treaty or convention entered into, pursuant to the Constitution, and if any person not employed under the authority of the United States, shall attempt to negotiate such

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* If persons removed from Indian land, returned to settle and reside thereon, they were liable upon conviction, to imprisonment for thirty days.

Under this act

treaty or convention, directly or indirectly, to treat with any such nation or tribe of Indians, for the title or purchase of any lands by them held or claimed, such person shall forfeit and pay one thousand dollars. *Provided, nevertheless*, That it shall be lawful for the agent or agents of any State who may be present at any treaty held with Indians under the authority of the United States, in the presence and with the approbation of the commissioner or commissioners of the United States, appointed to hold the same, to propose to adjust with the Indians the compensation to be made for their claim to lands within such State, which shall be extinguished by treaty. See United States Statutes at Large, vol. 4, page 730.

The memorial of the undersigned Councillors of a majority of the members of the Seneca Nation of Indians residing on the Allegheny & Cattaraugus Reservation, respectfully represents

MEMORIAL.

To the Senate and House of Representatives of the United States of America, in Congress assembled.

~~The memorial of the Connsellors, and a majority~~ of the ~~members of~~ the Seneca Nation of Indians residing on the Allegheny and Cattaraugus Reservation, respectfully represents: That we are the descendants and representatives of a once powerful and numerous tribe of the aboriginal inhabitants of an extensive territory. A part of that territory is now in the limits of the State of New York; and all of it, except a very small portion has passed from our control through the action of our forefathers, who, yielding to the ~~earnest entreaties of~~ white men, parted with it for a mere nominal consideration. There are now remaining in our possession, of the large domain alluded to, but about fifty thousand acres; equal at the present time ~~to only~~ about 20 acres for each person constituting our nation; some of which, being hilly and of poor quality, is not adapted for cultivation.

The Allegheny reservation extending ~~along~~ on both sides of the Allegheny river, being favorably located for railroads; two have been constructed through portions of it, and others are projected. Some years since, upon the application of the New York & Erie and the Atlantic & Great Western Rail Roads, the right of way was granted to them by our nation for a small compensation, and about fifty acres near the junction of the two roads, were leased for a term of 99 years to one of those companies for the erection of machine shops, depots, &c. A number of the employees of those companies and other white men, needing lots to build dwellings upon, a portion of our land was also leased to them. Some of the leases so made were renewed upon the expiration of the periods

for which they were granted. Lately, that is to say, within about two years, the Supreme Court of New York has decided that we, neither as a nation or a tribe, or as individuals, even under the authority of the State Legislature, have the power legally to let our lands. Thus all of the leases we have made have become thereby invalid and of no account in law. Having made said leases in good faith, and under the belief that as owners of the land we had the right to do so, and there we have leased to having made valuable improvements on our land, particularly in the villages of Salamanca, Carrolton, and Great Valley, we are desirous of making them secure in the possession of the land they occupy as our tenants, which they, the lessees, also desire may be done. For this purpose we need the authority to make leases which shall be deemed legal under the laws of the United States. While we are well aware of the evil influences which are exerted upon many of our people by having numerous settlements of white persons near us, yet the location of our land, and the circumstances which the progress of the improvements of the country have brought around us, seem to render it needful that a portion of our land should be so occupied. In consideration of which we are induced to yield thereto, and therefore ask authority to make such leases as will render the parties who have been allowed to occupy our lands, as well as those who may be hereafter permitted to do the same, secure in the improvements they have made, and may make thereon as our tenants.

We have for many years given attention to the cultivation of our land from which we obtain our subsistence, and the possession of which we desire to retain for our own use and that of our children *forever*. We are convinced our improvement would be promoted if we held our land in severalty. Each one, if possessed of their several allotments, would, we think, be induced to cultivate and improve them with more diligence and care than is now done, or will be likely to be done as long as the land is held in joint tenure. We therefore respectfully ask that Commissioners be appointed and empowered, as is set forth in the accompanying bill, to make partition and allotment among the members of our nation of all that portion

of our land which is not set apart for the general uses of the nation, as described in said bill, the provisions of which bill having been explained to us, we fully approve, and we desire it may become a law. —

And we also respectfully ask that, in view of our inability to pay the expenses which will be necessarily incurred in the division and partition of our land among us as therein provided, that you will appropriate a sufficient sum to pay therefor, and by so doing promote the advancement and improvement of our nation in the arts of civilized life, which we confidently anticipate will follow therefrom.

AN ACT TO AUTHORIZE THE SENECA INDIANS RESIDING ON THE ALLEGHENY AND CATTARAUGUS RESERVATIONS TO LEASE A PORTION OF THEIR LAND AND MAKE PARTITION OF THE REMAINDER.

Whereas, The Seneca Indians residing on their Allegheny and Cattaraugus reservations, in the State of New York, believing that they had a right to do so, have leased certain portions of their land to white settlers, and also to rail road corporations, which leases have been decided by the Supreme Court of the State of New York to be invalid. *And whereas*, the lessees of said land have made valuable improvements thereon, which, unless said leases can be made legal, will be diminished in value, and the owners thereof be liable to suffer material loss; *and whereas*, most of the land so leased is at the junction of two important rail roads, on which extensive buildings for the use of those roads have been erected and occupied; *and whereas*, important advantages will result from said Indians having authority to divide their land, and hold it in severalty; *and whereas*, many of said lessees, as well as the Counsellors and members of the Seneca Nation of Indians, have petitioned for the relief in this Act contained; therefore,

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SEC. 1. Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled; That it shall be lawful for the Counsellors of the said nation of Indians, duly elected by the lawful voters thereof, to make new leases of such portions of their land in ~~[illegible]~~ the villages of Salamanca, Great Valley, Carrolton, and Red House, which have been, and are now, leased either by individual Indians, or by authority of said Seneca Nation of Indians, or by both. Said new leases to be in lieu of the old ones, and to be made on the same terms, and for the unexpired time of the old leases respectively, (~~those to railroad corporations excepted.~~) In said new leases a clause shall be inserted, stipulating for the renewal of them at and from the expiration of the term of each respectively, and for a period not exceeding in any case twenty years. Such renewal to be made on such terms as may be agreed upon by the Counsellors of the nation for the time being and the lessee, and to be determined by the actual value of said land at the time of the renewal, irrespective of the buildings or improvements thereon. In case they fail to agree, then the terms of said new lease shall be determined by disinterested persons, one of whom shall be chosen by the Counsellors of the nation for the time being by ballot, and one by the lessee, and if the two thus chosen cannot agree, they shall select another to act with them, and the rent fixed by a majority of these shall be final; and in every case of the renewal of leases now authorized to be made, and that shall hereafter be made, the rent which shall be required to be paid by any lessee for a new period, shall be fixed and determined as ~~[illegible]~~ herein provided.

SEC. 2. The said Counsellors of the Seneca Nation of Indians after the passage of this act, shall cause a tract of land to be surveyed immediately contiguous to each of the villages of Salamanca, Great Valley, Carrolton, and Red House, of sufficient extent to accomodate those persons who may hereafter desire to build and settle thereon, not exceeding ~~[illegible]~~ acres for each village, which said Counsellors are hereby authorized as and when it appears needful, to ~~cause to be laid out into streets and building lots,~~ and to lease said lots on such terms, and for such periods, not exceeding twenty years, as may be mutually agreed upon by said Counsellors or their duly authorized agents and the applicants for said lots. *Provided*, that the income from all the said leased land,

wherever situated, shall be collected by an agent duly elected by said Counsellors annually, and paid over to the Treasurer of the nation, and shall be expended for the general purpose of said Seneca Nation, and for no other, by order of the Counsellors. And provided also, that until said additional land shall be needed for building lots as aforesaid, it may be leased for agricultural purposes at the discretion of the Counsellors of the nation.

SEC. 2. It shall be lawful for said Seneca Indians residing on the Allegheny and Cattaraugus reservations, by a vote of two-thirds of their Counsellors, legally elected as aforesaid, to choose five competent disinterested men, citizens of the United States, as Commissioners, whose duty it shall be to make partition and allotment among all the members of said nation of Indians of every age who may be entitled thereto on the day of the month, 1873, of all the remainder of the land belonging to said nation constituting their Allegheny and Cattaraugus reservations, except such portions as are now occupied for places of worship, school houses, asylums, grave yards, or for council or court houses, and public roads, as they, the said five Commissioners, or a majority of them, may think just and equitable, having regard to the value of the land, *exclusive of the improvements*, and as far as practical so as to include the improvements owned by each on the tract allotted to him or her. In cases where allotments to individuals cannot be satisfactorily made without including the improved land heretofore occupied by others, the amount to be paid to the party who made the improvement on the land included in such allotment, shall be fixed and determined by a majority of said Commissioners, and the amount so fixed shall be a lien upon the allotment until discharged or paid, with six per cent. interest thereon. The said Commissioners upon agreeing on said allotments, shall cause the same to be surveyed and each allotment designated by corner stones or stakes. They shall also cause a map thereof to be drawn, showing the metes and bounds of each of the shares or purparts, with the names of the respective parties to whom they were allotted distinctly marked thereon. *Provided*, that the allotments of the members of each family shall be together as much as practicable, and the father of the family shall have the right to control the portions belonging to his wife and children as if the whole were his exclusively. Said control of the father of his children's portions to continue however, only during their minority, and no sale made

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It shall be lawful for a Seneca a female child or children to be apprentice in such manner as shall be directed by law to which have the control of their [illegible] of the same estate of said child or children or their parents are dead — Provided that no more than [illegible] of the allotments the entire transport public

wherever situated, shall be collected by an agent duly elected by said Counsellors annually, and paid over to the Treasurer of the nation, and shall be expended for the general purposes of said Seneca Nation, and for no other, by order of the Counsellors. And provided also, that until said additional land shall be needed for building lots as aforesaid, it may be leased for agricultural purposes at the discretion of the Counsellors of the nation.

SEC. 2. It shall be lawful for said Seneca Indians residing on the Allegheny and Cattaraugus reservations, by a vote of two-thirds of their Counsellors, legally elected as aforesaid, to choose five competent disinterested men, citizens of the United States, as Commissioners, whose duty it shall be to make partition and allotment among all the members of said nation of Indians of every age who may be entitled thereto on the day of the month, 1873, of all the ~~remainder of~~ the land belonging to said nation constituting their Allegheny and Cattaraugus reservations, except such portions as are now occupied for places of worship, school houses, asylums, grave yards, or for council or court houses, ~~and public roads~~, as they, the said five Commissioners, or a majority of them, may think just and equitable, having regard to the value of the land, *exclusive of the improvements*, and as far as practical so as to include the improvements owned by each on the tract alloted to him or her. In cases where allotments to individuals cannot be satisfactorily made without including the improved land heretofore occupied by others, the amount to be paid to the party who made the improvement on the land included in such allotment, shall be fixed and determined by a majority of said Commissioners, and the amount so fixed shall be a lien upon the allotment until discharged or paid, ~~with six per cent.~~ interest thereon. The said Commissioners upon agreeing on said allotments, shall cause the same to be surveyed and each allotment designated by corner stones or stakes. They shall also cause a map thereof to be drawn, showing the metes and bounds of each of the shares or purparts, with the names of the respective parties to whom they were allotted distinctly marked thereon. *Provided*, that the allotments of the members of each family shall be together as much as practicable, and the ~~father~~ of the family shall have the right to control the portions belonging to ~~the wife and~~ children as if the whole ~~was his exclusively~~. Said control of the ~~father of his~~ children's portions to continue however, only ~~during their minority~~, and no sale made

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by ~~them~~ their or other other than their own shall be valid, except by order and confirmation of a court or body by law constituted for the purpose of acting on behalf of minors by the Seneca Nation of Indians. Upon said allotment and partition being made, and the map of the same being completed and explained to those who may call upon the Commissioners for the purpose of being informed thereon, they shall notify the Counsellors of the nation thereof; whereupon said Counsellors shall fix a day to take a vote on approving or disapproving of said division and allotment, and cause notices to be put up in the most public places on both reservations at least thirty days before the time and place appointed for taking said vote. If upon counting the votes by officers appointed for the purpose, it should appear that two-thirds of the men and women over 21 years of age approve of the allotment and division of said land, as shown on said plan or map, the same shall be binding upon all members of said Seneca Nation, and the parties to whom the respective allotments shall be made, and their heirs and assigns, shall hold the same in severalty, as is hereinafter provided. If the division and allotment should not be approved by the requisite number, it shall be the duty of the Commissioners at an early day after the announcement thereof, to appoint a time to hear those who may be dissatisfied, and make such changes in the allotments as may appear to them necessary and reasonable, giving notice thereof to the parties immediately interested. After said changes are made, notice shall be given thereof to the Counsellors, who thereupon shall give notice and proceed to take another vote upon approving or disapproving, as heretofore provided, and the Commissioners are authorized to continue to make such changes as appear to them to be reasonable and proper until the approval of said two-thirds to the division is obtained, whereupon said map and report of Commissioners shall be placed on record, and said division and allotment shall be binding on all as aforesaid.

SEC. 4. In consideration of the inability of the said Seneca Nation of Indians to pay the expenses attendant upon the partition and survey of their land, herein provided for, and with a view to the encouragement of a proceeding so likely to promote their future welfare and advancement, the sum of ~~five~~ thousand dollars is hereby appropriated to pay the expenses of said partition and survey and the drawing of a map thereof.

SEC. 5. Those to whom such allotments shall be made, their or his or her heirs and assigns, are hereby authorized to

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wherever situated, shall be collected by an agent duly elected by said Counsellors annually, and paid over to the Treasurer of the nation, and shall be expended for the general purpose of said Seneca Nation, and for no other, by order of the Counsellors. And provided also, that until said additional land shall be needed for building lots as aforesaid, it may be leased for agricultural purposes at the discretion of the Counsellors of the nation.

SEC. 3. It shall be lawful for said Seneca Indians residing on the Allegheny and Cattaraugus reservations, by a vote of two-thirds of their Counsellors, legally elected as aforesaid, to choose five competent disinterested men, citizens of the United States, as Commissioners, whose duty it shall be to make partition and allotment among all the members of said nation of Indians of every age who may be entitled thereto on the day of the month, 1878, of all the remainder of the land belonging to said nation constituting their Allegheny and Cattaraugus reservations, except such portions as are now occupied for places of worship, school houses, asylums, grave yards, or for council or court houses, ~~and public roads~~, as they, the said five Commissioners, or a majority of them, may think just and equitable, having regard to the value of the land, *exclusive of the improvements*, and as far as practical so as to include the improvements owned by each on the tract alloted to him or her. In cases where allotments to individuals cannot be satisfactorily made without including the improved land heretofore occupied by others, the amount to be paid to the party who made the improvement on the land included in such allotment, shall be fixed and determined by a majority of said Commissioners, and the amount so fixed shall be a lien upon the allotment until discharged or paid, with ~~six per cent.~~ interest thereon. The said Commissioners upon agreeing on said allotments, shall cause the same to be surveyed and each allotment designated by corner stones or stakes. They shall also cause a map thereof to be drawn, showing the metes and bounds of each of the shares or purparts, with the names of the respective parties to whom they were allotted distinctly marked thereon. *Provided*, that the allotments of the members of each family shall be together as much as practicable, and the ~~father~~ of the family shall have the right to control the portions belonging to ~~his wife and~~ children as if the whole ~~was his exclusively~~. Said control of the ~~father of his~~ children's portions to continue however, only ~~during their minority~~, and no sale made

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SEC. 5. Those to whom such allotments shall be made, their or his or her heirs and assigns, are hereby authorized to

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occupy and enjoy the same as though he, she, or they were the owners thereof in fee simple, and until three-fourths of all the men and women over twenty one years of age owning such allotments, and interested in said lands, shall signify by a vote taken after public notice of at least thirty days, that they are willing at a price per acre, to be inserted in said notice, to sell all said lands to the citizens of the United States, who hold the pre-emption right as assignees of the State of Massachusetts.

SEC. 6. After the division of said lands, the respective owners of the allotments aforesaid, may sell or convey or devise by will proven by two witnesses, their respective shares or any part or parts thereof to any member of the Seneca Nation of Indians, or any member of the Six Nations of Indians, who shall hold the granted lands subject to this Act; but none of such lands shall be aliened or devised to others than such members of the Seneca Nation of Indians, or of the Six Nations of Indians, without authority of Congress and the State of Massachusetts first had therefor; the latter acting by virtue of the compact made between that State and New York in 1786, and then only with the consent of the owners of the pre-emption right as assignees of said State of Massachusetts. It being hereby declared to be the intention of this Act, to encourage the improvement and settlement of said Indians in agricultural and other industrial pursuits, which many of them are anxious should be more attended to among them, and not to interfere in any way with any rights those citizens may have who are as assignees of Massachusetts, entitled to purchase the lands constituting the reservations herein authorized to be divided, when the Indian occupants may be willing to sell them, and a mutual agreement can be made for that purpose. *Provided*, said sale when made shall be subject to the leases made in conformity with this Act, and not to any other. *And provided also*, That the regular grave yards shall be reserved and to required to be kept in good order by the purchaser.

SEC. 7. It shall not be lawful after the partition and allotment herein authorized to the respective parties entitled to share in said land, for any holder of any portion of said land to lease or let for any period of time his or her portion thereof to any other than a member of the Seneca Nation of Indians, or of the Six Nations as aforesaid.

SEC. 8. That the lessors in the name of the Counsellors of the Seneca Nation of Indians, shall have the right to maintain any action in any court of the State for the recovery of arrears of rent, and the enforcement of the terms of the leases they may make in conformity with this Act.

SEC. 9. That any member of the Seneca Nation of Indians

is hereby authorized to sell and dispose of his personal property and receive pay therefor in the same manner as any citizen of the State of New York, and maintain an action therefor in said State courts to the same extent as a citizen may; and any Indian in the occupancy of his land as aforesaid, is hereby authorized to maintain any action in the courts of said State or the United States, that any citizen could for the recovery of his real and personal property, or for the recovery of any damage done to said property, or to recover the value of any personal property wrongfully taken from him.

Sec. 10. In case the owner of any allotment should die without leaving a will, the land he died seized of shall be inherited according to the intestate laws the Seneca Nation may make for the division of such estates, and said nation shall require all deeds of conveyance of land, all wills recognized by laws made in conformity to this Act, all plans of villages, and all leases of land, as well as all obligations designed to be liens on real estate, to be duly recorded in books to be provided at the expense of the nation, and by an officer appointed or elected as may be directed by law, and a copy of documents so recorded, certified by the proper officer to be correct, shall be legal evidence in any court of the State or the United States.

Sec. 11. The legal obligations of any Indian which may be liens on real estate, may be collected by sale of said real estate to any member of the Seneca Nation, or of the Six Nations, in such manner as may be provided by laws duly enacted by said Seneca Nation of Indians, and the title thereto, upon a sale in accordance with such law, shall pass to the purchaser as effectually as if voluntarily sold by the owner thereof.

Sec. 12. All laws regularly enacted according to the Constitution of the Seneca Nation of Indians, affecting in any way the owners of real estate, shall be binding on members of other tribes of Indians who may become purchasers of land in conformity with this Act on either of said reservations, or who may become residents thereon as tenants.

Sec. 13. At the time the annual census of the nation is taken, under direction and by authority of the United States agent, for the purpose of distributing the annuities to which the Seneca Nation is entitled, it shall be the duty of the officer selected for that purpose to enroll the names, ages and sex of each individual so entitled, and he shall ascertain and make record of the time of the death of any member of the nation deceased since the previous annual census; also the name and time of birth of any child or children of any member of the Seneca Nation born within the same period; also the names of and ages of any members of said nation who may have been married during the same time, and the date of the said marriage, and how and by whom said marriage was accom-

plished; all of which shall be duly recorded by the officer in books provided for the purpose, which books shall be placed in the custody of the Recorder of Deeds, Wills, &c., and be accessible to any member of said Seneca Nation. Gardiner

regulation to be fixed by law

[illegible] proposed 1849 -

All nations tribes or bands of Indians who own tracts of Indian reservations within this State, shall hold lands thereon as the common property of such nations tribes or bands, may by the act of their respective Indian government divide such common lands into lots or lots, & divide & partition the same or part thereof, quantity & quality relatively considered, to & amongst the individuals or families of such nations tribes or bands respectively so that the same may be held in severalty in fee simple, according to the laws of this State but no lands so occupied or improved by any Indian according to the laws usages or customs of the nation, shall be sold or to any person other than the occupant or his or her family.

8 & case such distribution or partition be made, the lots to be made to effect the same shall be made by such officers, agents or commissioners as said government shall appoint & the Commissioner of the land office shall approve, but before any such lands be executed, the proceedings & such authority for such execution & appointment & parties to be shall be attested & proved before the satisfaction of the County Judge of the County in which the lands to be conveyed shall lie recorded in the [illegible] County.

Copy

482 Louisiana Avenue
Washington D.C. Dec. 9. 1873

To the Authorities of the
Seneca Indian Nation.

I have just learned that a Council of the Six Nations of New York, has been called to convene at your Council house to-morrow, and regret not having known it in time to communicate with it.

I desired to state to such a Council what has occurred during the past thirteen years relating to the claims of the New York Indians under the treaty of January 15. 1838, and what appear to me the present prospects of a successful prosecution in the future.

At the outset, on the decision of Jacob Thompson, Secretary, that you had forfeited all right under that treaty, John J. Cochrane and myself, deeming the decision unjustifiable, sought, in your interest to organize measures to combat and overturn it. To do this with the then most promising elements of power, we obtained the opinions and favor of Hon. R.H. Gillet, who negotiated the treaty, Hon. Timothy Jenkins, of Oneida, since deceased, and the

late Mr. Thomas of Baltimore. They each declined any personal interest in the results to be attained, but pledged us their personal encouragement of our endeavors. We associated with us Mr. Jenkins's son-Hiram J. Mon. Sayles J. Brown, of this City, Judge George Barker, of Fredonia, N.Y. and since, Robt. McBratney of Kansas. Since the death of Mr. Jenkins, his cousin, James B. Jenkins has acted on his behalf, as correspondent in the central part of New York.

Your Memorials were referred to the Committees on Indian Affairs of both houses of Congress in Dec. 1860. With them we submitted a full statement of facts, and during that winter, were encouraged from Members of the Committees of each House, to believe favorable action would be taken. The war however, was soon inaugurated, when our representations were made secondary to the importance of using all the means of the Govt. in the suppression of the rebellion. Of these facts and their effects upon the minds of Senators, and Members, it was a difficult matter for us to represent satisfactorily to your peoples. But, as Mr. Thompson had left the Department, we gradually

gained ground with the Executive branch of the Govt. although we lost with the Legislative branch — The latter, as we believe, by the collusion of legislators with lobby thieves for corrupt purposes. Our papers with your memorials had been tampered with and lost to the files of the Senate and could nowhere be found. When afterwards James Harlan became Chairman of the Committee, on being thwarted from gaining for his especial friends the exclusive control of your claim, he became a persistent enemy, not only to your obtaining your rights according to the precedent of the Tonawandas, which we urged, but became a bitter enemy to all Indian treaty relations. And as resulting from his efforts, the binding character of treaty stipulations have become ignored in the general practice of the Government, where it has been practicable to do so. The Modoc massacre and the general Indian troubles are the legitimate result of the bad faith of the Government in their treaty stipulations.

In 1864 we had made such interest with the Executive branch as against Jacob Thompsons views, that we succeeded in getting a Commissioner appointed

to negotiate with you. But your people were then themselves so divided in opinion that the Comr. deemed it wise to forego efforts to satisfy the conflicting views at that time.

Subsequent to that, Mr. Harlan was promoted from the Senate to be Secretary of the Interior and while there he showed unmistakable evidence of his hostility to your interests. We could do nothing with him on your behalf.

On his re-election to the Senate in 1867, we resumed efforts at the Dept. They resulted in the treaty negotiated with you by W. R. Irwin of the Indian Office on the 4th Dec. 1868. The purposes of that treaty did not equal those obtained by the Tonawandas in 1857 and we sought amendments in the Senate for that object. We soon found however, the old enemy, Harlan, as also his friend Senator Corbett, of Oregon, whom he had won to his side of the question, a barrier against the ratification of the treaty. Gov. Buckingham Senator from Conn. took a just and reasonable view of the case and was pledged to us to make a favorable report, but was overruled in Committee when it was reported adversely. The adverse report however, was not acted upon by the Senate, although

Harlan did his best to kill the claim.

As we were satisfied that in the then condition of the case, with Harlan and Corbett actively at work in the Senate Committee against the recognition of any treaty stipulations with Indians at all, that it was better to await their retirement from the Senate. Of this I have freely written to all of you who have enquired or, to whom I have had occasion to write. Thank God, both Mr. Harlan and Mr. Corbett have been retained by their constituents for other duties and we believe the elements now ruling the Senate are at least more honest, and that a renewed effort may now be made with a better prospect. I have therefore sent to Senator Fenton the draft of a Resolution, to be submitted to the Senate, intended to reopen the whole subject - including what became of the original Memorials submitted from you all, in 1860, the character of the instructions given Mr Mix as Commissioner in 1864; and, whether the negotiations of 1868 can be made the basis of a just settlement, now.

You have been made aware heretofore, how troublesome diverse Counsels are, and how important it is to have a cordial unity of effort on the part of all the

parties claiming in common. As I do not doubt you are all equally anxious with ourselves to secure success, I respectfully submit that you can do more now, by promptly giving us or, some of us your due authority to represent you in common with the nations who have not revoked our authority, than by any other measure or expense you may institute or incur. Hence, I have written you thus fully and fairly, as I view the case, that you may act advisedly.

I do not ask of you any specific pledge of 25 per cent. of proceeds or, any other percentage, but am willing and I believe every member of the firm still living, would waive that entirely, and let the Executive or Congress fix the measure of compensation, to which, for our efforts and services, we shall be entitled, in case of success. I respectfully submit that this proposition, which will be uniform with all the Nations interested, ought to satisfy all and restore cordial relations and confidence.

Very respectfully
Yours &c.
Geo. R. Herrick

43D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 478.

SENECA INDIANS OF NEW YORK.

APRIL 20, 1874.—Recommitted to the Committee on Indian Affairs and ordered to be printed.

Mr. B. W. HARRIS, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 3[illegible].]

The Committee on Indian Affairs, to whom was referred House bill No. 1053, submit their report as follows:

The Seneca Nation of New York Indians now occupy the Cattaraugus and Allegany reservations in Western New York. The former of these reservations contains about 23,000 and the latter about 30,000 acres. These lands are all which is left to them of their former extensive territory. They hold them under the treaty of November 11, 1794, which declares that "the United States will never claim the same nor disturb them or either of the Six Nations, nor their Indian friends residing thereon and united with them, in the free use and enjoyment thereof, *but the said reservation shall remain theirs* until they choose to sell the same," &c.

No treaties with Indians which attempt to provide against the encroachments of civilization, or to secure them in undisturbed possession of their lands, can long be maintained according to the strict letter, even in the remote mountain-regions of the West, much less in the central part of a great, prosperous, and populous State like New York.

It was impossible that these small reservations, entirely surrounded as they are with thriving and increasing manufacturing and agricultural communities, should escape the fate common to all other reservations of the kind.

With the growth of the country, commerce and trade demanded the construction of new avenues of communication. Long lines of railroad have been constructed from the east to the west; and as no obstacles in nature are found sufficient in our day to block their way, it is not strange that they have paid little heed to Indian reservations or treaty-stipulations.

Accordingly we find that the Erie Railroad has crossed the reservation, and has erected depots, machine-shops, and other buildings and structures required for the conduct of its large business upon the Indian lands. The Atlantic and Great Western Railroad, connecting itself with the Erie Railroad, has extended its line through the whole length of this narrow reservation. At the junction of these roads, a thriving and important village has sprung up, known by the name of Salamanca, which now contains, besides buildings used for railroad-purposes, numerous stores, warehouses, and private dwellings, as well as churches,

school-houses, and other public buildings, and has a laborious and industrious population of nearly three thousand people.

The Allegany reservation is about forty miles in length, extending on both sides of the Allegany River, and is hardly more than one mile in width. The Atlantic and Great Western Railroad going west from Salamanca keeps by the side of the river, and thus in the center of the reservation. It was inevitable that the population residing outside of the reservation, on each side of it, would seek and demand accommodation by this railroad. The result has been that railroad-stations have been established upon the reservation along the line of said road at Carrolton, Great Valley, Red House, and Vandalia, at each of which places small settlements have been made, which will doubtless increase in the future.

But although these railroads have been built across the Indian lands in violation of the letter of treaties made with the Seneca Nation, and can be said now to have no lawful right there, yet they have not been so constructed without the consent of the Seneca Nation, nor without just compensation being made; nor have the settlers and villagers gone upon the Indian lands against the will, or without the consent, of the Indians, or with any intention or desire to violate their rights or privileges. So far as has appeared, the railroad-companies have dealt fairly, taking from the said Seneca Nation leases of the lands they occupy, paying full compensation for the rights secured. The settlers in said villages have also dealt honorably, and are all tenants of the Seneca Nation, or of individual Indians, paying just annual rent for their lands. It does not appear that the Indians are dissatisfied with the arrangement, or that they have just cause for complaint of the tenants.

The only title which the Indian can give is a lease-hold title. They have only the right of possession. The pre-emptive right, or the right to extinguish the Indian title by purchase or otherwise, in this case belonged originally to the State of Massachusetts, but has passed by several conveyances to the trustees of the Ogden Land Company, who now hold it.

But the Indian right to occupy is a right forever, or so long as the nation may last; and it would seem that they should have the legal right and power to make their possession profitable and useful to them by leasing it to tenants, if they see fit.

But under the laws of the United States and the treaties made with the Seneca Nation, the Indians are incapable of, and prohibited from, making valid contracts concerning the use and occupation of their lands. The law now in force is as follows: "No purchase, grant, lease, or other conveyance of land, or of any title or claim thereto, from any Indian nation or tribe of Indians, shall be of any validity in law or in equity, unless the same be made by treaty or convention, entered into pursuant to the Constitution. (Stat. at Large, vol. 4, p. 730.)

Heavy penalties are also provided against the violation of its provisions.

Notwithstanding such is the law, neither the railroads nor settlers are trespassers in spirit or purpose, however much they may be technically so; for, until recently, they acted under laws enacted by the State of New York, which were passed and intended to confirm and authorize leases made by white men with said Seneca Nation of Indians. They relied upon the laws so enacted, and in good faith took leases of land from said nation, and from individual Indians holding under the nation, and have erected thereon not only houses more or less costly and taste-

ful, but expensive buildings for trade and manufactures, school-houses, churches, and other buildings, and have laid out a comely town.

The Indians do not desire that these villages should be removed or broken up, or that these leases should be canceled; but, on the other hand, they profess to be willing to carry out all their leases according to their terms; and if they object to a law confirming them, or authorizing new ones to be made, it is because, being simple in their ideas of individual property, they do not appreciate the importance which a white man attaches to having his contract not only legal but capable of being enforced by law.

The supreme court of New York and the Supreme Court of the United States have decided that the legislature of New York has no jurisdiction over the subject, and can give no force or validity to any leases of land within said reservation, nor give any authority to such in any way. The result is, that no lease heretofore made by said nation or individual Indian, or any which they can hereafter make, is or can "be of any validity in law or in equity."

The value of improvements made upon land in Salamanca and the other villages by the white settlers is estimated at $3,000,000.

Under this state of the case, the residents in these villages have no remedy whatever against wrong-doers and trespassers. They can neither collect rents nor expel delinquent tenants. They are, moreover, exposed to the danger of being removed, with entire loss of their property, whenever any designing person shall incite the Indians to demand a strict enforcement of their treaty-rights.

Their only dependence now is in the well-known and long-acknowledged high sense of honor of the Seneca Indians.

The committee feel that such a state of things ought not longer to be permitted to exist, and that it is just and right that Congress should ratify and confirm the free and voluntary contracts of their Indian wards, made in good faith and for a sufficient consideration. The committee do not deem it just or wise, even if Congress may have the legal right, to violate or abridge in any way the right of the Indian to the free use and enjoyment of the reservations as set forth in the treaty of 1794, and they therefore reject all the provisions of the bill referred to them except those which relate to existing leases and leases hereafter to be made. They think it just and safe to give them power to lease their lands if they choose, and, having done so, the law should give validity to their acts.

We annex to the report the petitions and remonstrances filed in the case.

Your committee report the accompanying bill as a substitute for House bill No. 1053, and recommend its passage.

We, the undersigned, citizens of the United States and occupants of land in the town of Salamanca, on the Allegany Indian reservation in the State of New York, respectfully but earnestly pray Congress to pass the bill to which reference is made in the resolutions hereto annexed.

[Signed by John J. O'Donnell and 799 others.]

Preamble and resolutions adopted at a citizens' meeting held at Flint's Hall, Salamanca, February 13, 1874—H. O. Wait, president; O. B. Scimar, secretary.

Whereas, by the junction of the Atlantic and Great Western Railroad with the Erie Railroad at Salamanca, on the Allegany Indian reservation, necessary repair and machine shops and transfer freight-houses, to successfully operate said roads, had to be constructed at that point, and a sufficient number of persons employed to transfer the

freight received from one road to the other and to carry on said shops; and that by the employment of persons sufficient for said railroad-purposes at said place other pursuits, as a natural consequence thereof, necessarily followed, to meet the demands of the laborers thus employed and the requirements of the public;

And whereas the Indians, both individually and by their government, represented by their president and council, made and granted leases of such lands upon reasonable terms for a yearly compensation, to be occupied by private residences, business-houses, manufacturing-shops, water-powers for mills and necessary buildings, railroad-depots, repair and machine shops, and other buildings necessarily connected with railroads, and the legislature of the State of York authorized and sanctioned such occupancy by enacting a statute-law confirming the same;

And whereas, by inducements thus held out and sanctioned, the settlement upon said reservation-lands in said town continued to increase from year to year until at present more than three thousand people have become occupants thereof, and capital nve ted to the amount of more than three million dollars;

And whereas, after such investment and settling, induced as aforesaid, under the protection and authority of the government of the Seneca Nation of Indians and the State of New York, the courts, whose mandates all are bound to obey, have determined and decided that our money so invested and property thus accumulated is without authority of law and void, and the leases are only evidence of our being trespassers on said lands, and our occupancy is at the mere mercy of the Indians, whom the courts stand ready to aid, whenever invoked, to compel us to relinquish all of said property and vacate the possession thereof; and have also held and decided that Congress alone possesses the power to afford any relief: Therefore,

Be it resolved, That the Congress of the United States be, and hereby is, requested, as the only remedy for all our existing evils, to pass the bill now pending before that body, entitled "An act to authorize the Cattaraugus and Allegany Indians in the State of New York to lease lands, confirm leases, and quiet titles to their lands."

And be it further resolved, That the Senators and Members of this State be, and hereby are, specially requested to exert their influence in our behalf to press the aforesaid bill to an immediate passage.

And be it further resolved, That our committee who have this matter in charge be, and hereby are, requested to persevere in the great work before them until it shall be brought to a successful conclusion.

And be it further resolved, That a copy of these preambles and resolutions, together with the petition to Congress this evening signed and adopted, be forwarded to the Congress of the United States, and that a copy thereof be furnished the press for publication, and also a copy be annexed and forwarded with said petition.

To the Senate and House of Representatives of the United States of America in Congress assembled:

We, the undersigned, members of the Seneca Nation of Indians residing on the Allegany reservation, and the Cornplanter reserve, Warren County, Pa., respectfully represent that we are the descendants and representatives of a once powerful and numerous tribe of the aboriginal inhabitants of an extensive territory; that they are informed that a bill is now pending before your honorable body providing a subdivision and allotment of lands be made on the Allegany and Cattaraugus reservations in the State of New York, among the Senecas, and for the legalizing of leases of lands in the town of Salamanca, which, among other things, we would most respectfully state that we are in favor of having allotment of land to us. It would certainly be beneficial to our nation as a people. At present we are living in common, which show a strong evidence, more tendency, neglecting agricultural pursuits, or making any improvement. If each of us, instead, had his parcel of land to occupy, it would encourage us to labor and become independent. If our Great Father, the President of the United States, will provide for his children in this way, they will be satisfied.

That the Society of Friends of Philadelphia, Pa., earnestly requested us to present our prayer to the Congress of the United States to urge for passage of the bill in relation to the allotment of lands.

Dated February 2, 1874.

[Signed by John Jacobs Square and thirty-six others.]

To the Congress of the United States:

Your petitioners, the officers and members of the national council of the Seneca Nation of Indians, would respectfully represent that we have been informed that a bill has been introduced into the House of Representatives of your honorable body, which provides in

some manner for the sale of a part or the whole of the small remnant of land belonging to us and our people; and that we, as the representatives of the New York Indians residing upon the Cattaraugus and Allegany Indian reservations, desire to protest in the most solemn and emphatic manner against any legislation affecting our lands. And as we obtained our rights to this land by a free and voluntary treaty, in which each party freely participates through its own agents, selected on the part of the United States as its laws and customs required, and on the part of the Seneca tribe of Indians as its laws and customs provided, so we ask that, if we are to be deprived of any part of this land, it may be done by a treaty, and that we may be heard through our lawfully-authorized agents. And as such a treaty would require a ratification by your Senate and the President of the United States, so it would under our laws require ratification by a three-fourths vote of the legal electors, and also by a three-fourths vote of the mothers in our nation.

If, then, you have come to the conclusion that the land which we hold under your treaty of November 1, 1799, in these words, "Now, the United States acknowledge all the land within the aforementioned boundaries to be the property of the Seneca Nation, and the United States will never claim the same, nor disturb the Seneca Nation, nor any of the Six Nations or of their Indian friends residing thereon and united with them, in the free use and enjoyment thereof, but it shall remain theirs until they choose to sell the same to the people of the United States who have the right to purchase," should be taken from us, we ask that it may be done in the manner in which it was set apart for us, *i. e.*, by treaty, and then only by our consent. And we earnestly urge that the passage of any law by Congress the effect of which would be to deprive us of any part of our land, under any pretext or consideration, would be a violation of that part of said treaty which says that this land shall remain ours until we choose to sell it.

And we would further remonstrate and state that we are the legal representatives of the Seneca Nation; that we derive our authority from a written constitution adopted by our nation December 4, 1848, and that as such a nation we have ever been acknowledged and dealt with by all the authorities of the United States and of the State of New York, and that we do, by a unanimous vote, attested by the signature of every councilor and officer of said nation, remonstrate against the passage of any law looking to the sale of one foot of our land; and we do in that manner state that the Seneca Nation do not choose to sell their land nor any part of it.

Your petitioners would further state that they do believe that every part and all of their lands are needed and required by their people; that they as a nation have discharged their duty in this, that no Indian is a charge upon the poor-fund or poor-house of the whites; that no Indian suffers for the want of food, clothing, or warmth; that provision has been made for the education of all our Indian children; and that the criminal records of the counties in which our lands are located will show that crimes are very much less frequent among our people than among an equal number of whites adjoining us. Our churches are sustained with personal attendance and with money. While we are thus steadily progressing in the civilization of the whites, we are kept in constant terror by efforts being made upon all sides of us to take away our lands. The Ogden Land Company have ever been our steady, stealthy enemy, and have been and still are trying by every means to drive us from these lands, as they have or claim to have the right to them as soon as we can be removed from the soil. And now we have a new element of trouble. Many years ago the State of New York authorized the Erie Railroad to be built across the Allegany Indian reservation; a few years after, the Atlantic and Great Western Railroad was built across the same reservation, joining the Erie Railroad upon our lands at Salamanca; and now another railroad has been built, also terminating on our lands at Salamanca. All of these railroads have taken possession of as much land as they chose to, and their employés have taken other lands adjoining and built up a large town.

No part of these lands have been lawfully leased either under the authority, laws, and customs of the Seneca Nation of Indians, or of the laws of the United States, but the entire occupancy of lands surrounding the said railroad-junction at Salamanca is in violation of the laws of the United States, the laws of the State of New York, and the laws, customs, and usages of the Seneca Nation of Indians.

Your petitioners are informed that the application for the sale of our lands is being made in the interest of these white settlers, who have thus unlawfully obtained possession of our lands.

Your petitioners would further state that they are an agricultural people; that if they can be assured of holding their lands they can make permanent improvements, but that every effort made to deprive them of their lands tends to prevent action in that direction; that all they need and ask is such an assurance of their continued possession as a refusal by Congress to consider any proposition providing for the sale of their lands. Your petitioners, therefore, pray that the act proposed may be rejected.

Your petitioners would further represent that they have appointed and authorized Harrison Halftown and Moses Stevenson, councilmen of our nation, and Andrew John,

a peacemaker thereof, to present this remonstrance, and to represent us before your honorable body.

Allegany Indian reservation, December 18, 1873.

[Signed by the president, secretary, treasurer, and councillors of the Allegany and Cattaraugus reservations.]

To the honorable the Congress of the United States:

Your petitioners, members of the Seneca Nation of Indians, residing in the Allegany and Cattaraugus reservations in the State of New York, respectfully remonstrate against the passage of bill House of Representatives 1053, "to authorize the Cattaraugus and Allegany Indians in the State of New York to lease lands, confirm leases, and quiet titles to their lands;" and we further represent that we are a nation claimed peaceable people, therefore we ask the honorable Congress to let us alone.

Dated Allegany reservation, January 31, 1874.

[Signed by William Patterson, jr., and 216 other males, and by 125 mothers of the nation.]

43D CONGRESS, 1st Session. } SENATE. { MIS. DOC. No. 85.

MEMORIAL

OF

CHIEFS AND HEAD-MEN OF THE ONEIDA NATION OF INDIANS,

ASKING

The payment of certain sums of money claimed to be due the "Six Nations" of Indians under the treaties of 1838 and 1842.

MARCH 6, 1874.—Referred to the Committee on Indian Affairs.
MARCH 20, 1874.—Ordered to be printed.

To the honorable the Senate and House of Representatives of the United States of America:

Your memorialists, the chiefs and head-men of the Oneida Nation of Indians, residing in the county of Madison, in the State of New York, respectfully represent:

That they, in common with others, known as "the Six Nations of New York Indians," held, by right of purchase by them, under the auspices and with the assent of the United States, five hundred thousand acres of land near Green Bay, in Wisconsin, which, except a small reservation, was conveyed to the United States by the first article of the treaty dated January 15, 1838, conditioned upon the pledge of certain equivalents, to be thereafter conveyed to them as consideration therefor. These equivalents were principally the conveyance to them, by patent, in fee-simple, of one million eight hundred and twenty-four thousand acres of land, designated to lie west of Missouri, adjoining the Cherokee tract, by the second article, and the appropriation of four hundred thousand dollars to enable them to remove there, &c., by the 15th article.

When this treaty was made the Seneca Nation (being one of said Six Nations) owned improvements where they resided in New York, and their representatives were induced to convey the same in connection with and as a part of the treaty aforesaid, to Messrs. Ogden & Fellows, a private land company. Their people, refusing to ratify such conveyance, caused delay and strife, which was sought to be overcome by a subsequent treaty between the parties interested, made May 20, 1842, but which only partially accomplished its purpose.

The third article of the treaty of 1838 required the Indians to remove to their lands west of Missouri within five years, or such other time as the President should appoint. He has never yet appointed a time, nor was the $400,000 appropriated for their removal, and hence they never have, nor could they remove by reason of these laches of the United States. The differences accruing between the Seneca portion of the Six Nations and the land company, which was foisted upon all the nations

in common by the interpolation into the treaty of that incongruous private land speculation referred to, was allowed to postpone and prevent the execution of the treaty of 1838. By reason of the failure of the United States to provide means and appoint the time, your memorialists and other portions of the Six Nations, therefore, were prevented from removing upon the possessions set apart for them west of Missouri, and for which they had fully paid. Hence they have refused to surrender their right to the consideration, or its equivalent, due them for conveying their Wisconsin lands to the United States. Their right to this equivalent appears to have been recognized by the United States in unmistakable terms, by the treaty of November 5, 1857, so far as the Tonawanda band of the Senecas were concerned. Your memorialists claimed the same equivalent, but even before the execution of the treaty made with the Tonawanda band of said Six Nations, viz, April 19, 1858, the then Secretary of the Interior, in the interest of squatter settlers upon their lands, promulgated the doctrine that the Indians had "forfeited their title to the reserve" by having "failed to remove." (See Ex. Doc. No. 37, 1st sess. 36th Cong.) Thus only about one-eighth of those entitled to participate in the equivalent for the consideration agreed to be paid for the conveyance of the Wisconsin lands, were satisfied under the partial treaty made with the Tonawanda band of Senecas.

By reason of this great wrong committed upon your memorialists by the head of the Department, whose duty in law it was to protect them, they were thus constrained and compelled either tamely to surrender their liquidated claim for the consideration due them, or employ counsel to seek to have done that which their legal guardian had willfully neglected to do. Therefore, during the following years, 1859 and 1860, your memorialists, by advice and aid of counsel, and in conjunction with the Cayugas, Tuscaroras, Onondagas, and the Senecas, other than the Tonawanda band, set forth their grievances, and demanded payment for the lands in Kansas withheld from them, in respectful petitions to each branch of Congress. These memorials were presented on the 17th and 19th December, 1860, in the House of Representatives and Senate, and referred to their respective committees on Indian affairs.

The secession of States and war of the rebellion, which immediately followed, was the excuse of the committees for postponement. In the mean time, through the efforts of our counsel and the visit of delegations to Washington in 1864, the then Secretary of the Interior was induced to review the action of his predecessor, and entered upon measures for negotiating a settlement with all the nations interested, on the basis of the treaty of 1857. Local difficulties intervening, they were postponed from time to time until the autumn of 1868, when negotiations resulted in a treaty concluded December 4 of that year. A prevalent sentiment of hostility to treating with Indian tribes, as nations, was brought to bear in antagonism to the treaty in connection with the merits of the claim. In consequence, the treaty still sleeps upon the Senate's executive calendar.

Having thus exhausted all means of obtaining their just rights through the executive branch of the Government, your memorialist beg again respectfully to ask your honorable bodies to provide and authorize the proper department to pay to themselves, and each nation entitled to participate in the consideration named, according to their numbers stated in the schedule appended to the treaty of January 15, 1838, less the band referred to, or individuals already paid, the same amount *pro rata* allowed under the treaty of November 5, 1857, viz, $393.85, with interest from April, 1858, until paid, to each soul—that being the mini-

mum estimate for their respective quotas of 320 acres of Kansas lands, at one dollar per acre, and $73.85, each soul's share of the removal money.

DANIEL SCONONDOA,
ISAAC WEBSTER,
THOMAS CORNELIUS,
JONAS CORNELIUS,
JOSHUA CORNELIUS,
WESLEY CORNELIUS,
NICHOLAS HONGON, his x mark.
JACOB DOXTATER, his x mark.
JOHN DANA, his x mark.
CORNELIUS HILL,
MOSES WEBSTER, his x mark.
THOMAS WEBSTER, his x mark.
DANIEL WEBSTER, his x mark.
ABRAM SCONONDOA, his x mark.
DANIEL SCONONDOA, J'R, his x mark.
THOMAS SCONONDOA, his x mark.
Chiefs and Head-men.

Signed in the presence of—

A. E. WALLACE, M. D.

STATE OF NEW YORK,
Madison County, ss:

On this 4th day of March, A. D. 1874, before me, the subscriber, personally appeared Daniel Sconondoa, Isaac Webster, Rev. Thomas Cornelius, Jonas Cornelius, Joshua Cornelius, Wesley Cornelius, Nicholas Hongon, Jacob Doxtater, John Dana, Cornelius Hill, Moses Webster, Thomas Webster, Daniel Webster, Abram Sconondoa, Daniel Sconondoa, and Thomas Sconondoa, chiefs and head-men of the Oneida Nation of Indians, to me known to be the same persons described in and who executed the foregoing petition, and acknowledged that they executed the same for the purposes therein mentioned.

[SEAL.] JAMES B. JENKINS,
Notary Public, Madison County, New York.

(Official signature of magistrate.)

JAS. B. JENKINS,
Notary Public.

STATE OF NEW YORK,
County of Madison, ss:

I, A. D. Kennedy, clerk of the courts of record of the county and State aforesaid, do hereby certify that James B. Jenkins is a notary public in and for said county, duly qualified to act as such; that his term of office commenced on the 31st day of March, in the year 1873, and will expire on the 30th day of March, in the year 1875, and that his signature, above written, is genuine.

Given under my hand and the seal of the said county, at Morrisville, in the said county of Madison and State of New York, on this 28th day of April, in the year of our Lord 1873.

[SEAL.] A. D. KENNEDY, *Clerk.*

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MEMORIAL

OF

HIEFS AND HEAD-MEN OF THE ONEIDA NATION OF INDIANS,

ASKING

payment of certain sums of money claimed to be due the "Six Nations" of Indians under the treaties of 1838 and 1842.

MARCH 6, 1874.—Referred to the Committee on Indian Affairs.
MARCH 20, 1874.—Ordered to be printed.

---

the honorable the Senate and House of Representatives of the United States of America:

Your memorialists, the chiefs and head-men of the Oneida Nation of dians, residing in the county of Madison, in the State of New York, spectfully represent:

That they, in common with others, known as "the Six Nations of New k Indians," held, by right of purchase by them, under the auspices d with the assent of the United States, five hundred thousand acres land near Green Bay, in Wisconsin, which, except a small reserva-, was conveyed to the United States by the first article of the treaty ed January 15, 1838, conditioned upon the pledge of certain equiva-s, to be thereafter conveyed to them as consideration therefor. se equivalents were principally the conveyance to them, by patent, ee-simple, of one million eight hundred and twenty-four thousand s of land, designated to lie west of Missouri, adjoining the Cherokee t, by the second article, and the appropriation of four hundred thou-d dollars to enable them to remove there, &c., by the 15th article.

When this treaty was made the Seneca Nation (being one of said Six ions) owned improvements where they resided in New York, and r representatives were induced to convey the same in connection h and as a part of the treaty aforesaid, to Messrs. Ogden & Fellows, ivate land company. Their people, refusing to ratify such convey-, caused delay and strife, which was sought to be overcome by a sequent treaty between the parties interested, made May 20, 1842, which only partially accomplished its purpose.

The third article of the treaty of 1838 required the Indians to remove their lands west of Missouri within five years, or such other time as President should appoint. He has never yet appointed a time, nor the $400,000 appropriated for their removal, and hence they never e, nor could they remove by reason of these laches of the United tes. The differences accruing between the Seneca portion of the Six ions and the land company, which was foisted upon all the nations

in common by the interpolation into the treaty of that incongru vate land speculation referred to, was allowed to postpone and the execution of the treaty of 1838. By reason of the failure United States to provide means and appoint the time, your mem and other portions of the Six Nations, therefore, were prevented removing upon the possessions set apart for them west of Missou for which they had fully paid. Hence they have refused to sur their right to the consideration, or its equivalent, due them for ing their Wisconsin lands to the United States. Their right equivalent appears to have been recognized by the United States mistakable terms, by the treaty of November 5, 1857, so far as the awanda band of the Senecas were concerned. Your memorialists the same equivalent, but even before the execution of the treaty with the Tonawanda band of said Six Nations, viz, April 19, 18 then Secretary of the Interior, in the interest of squatter settler their lands, promulgated the doctrine that the Indians had "for their title to the reserve" by having "failed to remove." (See Ex. No. 37, 1st sess. 36th Cong.) Thus only about one-eighth of th titled to participate in the equivalent for the consideration agre paid for the conveyance of the Wisconsin lands, were satisfied the partial treaty made with the Tonawanda band of Senecas.

By reason of this great wrong committed upon your memorial the head of the Department, whose duty in law it was to protect they were thus constrained and compelled either tamely to sur their liquidated claim for the consideration due them, or employ to seek to have done that which their legal guardian had willfully lected to do. Therefore, during the following years, 1859 and 186 memorialists, by advice and aid of counsel, and in conjunction w Cayugas, Tuscaroras, Onondagas, and the Senecas, other than th awanda band, set forth their grievances, and demanded payment lands in Kansas withheld from them, in respectful petitions branch of Congress. These memorials were presented on the 17 19th December, 1860, in the House of Representatives and Senate referred to their respective committees on Indian affairs.

The secession of States and war of the rebellion, which imme followed, was the excuse of the committees for postponement. mean time, through the efforts of our counsel and the visit of dele to Washington in 1864, the then Secretary of the Interior was to review the action of his predecessor, and entered upon measu negotiating a settlement with all the nations interested, on the the treaty of 1857. Local difficulties intervening, they were po from time to time until the autumn of 1868, when negotiations r in a treaty concluded December 4 of that year. A prevalent sen of hostility to treating with Indian tribes, as nations, was bro bear in antagonism to the treaty in connection with the merits claim. In consequence, the treaty still sleeps upon the Senate's tive calendar.

Having thus exhausted all means of obtaining their just rights th the executive branch of the Government, your memorialist be respectfully to ask your honorable bodies to provide and autho proper department to pay to themselves, and each nation entit participate in the consideration named, according to their n stated in the schedule appended to the treaty of January 15, 18 the band referred to, or individuals already paid, the same amo *rata* allowed under the treaty of November 5, 1857, viz, $393 interest from April, 1858, until paid, to each soul—that being th

n estimate for their respective quotas of 320 acres of Kansas lands, one dollar per acre, and $73.85, each soul's share of the removal ney.

DANIEL SCONONDOA,
ISAAC WEBSTER,
THOMAS CORNELIUS,
JONAS CORNELIUS,
JOSHUA CORNELIUS,
WESLEY CORNELIUS,
NICHOLAS HONGON, his x mark.
JACOB DOXTATER, his x mark.
JOHN DANA, his x mark.
CORNELIUS HILL,
MOSES WEBSTER, his x mark.
THOMAS WEBSTER, his x mark.
DANIEL WEBSTER, his x mark.
ABRAM SCONONDOA, his x mark.
DANIEL SCONONDOA, J'R, his x mark.
THOMAS SCONONDOA, his x mark.
Chiefs and Head-men.

gned in the presence of—

A. E. WALLACE, M. D.

TE OF NEW YORK,
Madison County, ss:

n this 4th day of March, A. D. 1874, before me, the subscriber, per-ally appeared Daniel Sconondoa, Isaac Webster, Rev. Thomas Cor-s, Jonas Cornelius, Joshua Cornelius, Wesley Cornelius, Nicholas gon, Jacob Doxtater, John Dana, Cornelius Hill, Moses Webster, mas Webster, Daniel Webster, Abram Sconondoa, Daniel Sconon-, and Thomas Sconondoa, chiefs and head-men of the Oneida Nation Indians, to me known to be the same persons described in and who uted the foregoing petition, and acknowledged that they executed same for the purposes therein mentioned.

EAL.] JAMES B. JENKINS,
Notary Public, Madison County, New York.

Official signature of magistrate.)

JAS. B. JENKINS,
Notary Public.

TE OF NEW YORK,
County of Madison, ss:

A. D. Kennedy, clerk of the courts of record of the county and e aforesaid, do hereby certify that James B. Jenkins is a notary lic in and for said county, duly qualified to act as such; that his n of office commenced on the 31st day of March, in the year 1873, will expire on the 30th day of March, in the year 1875, and that his ature, above written, is genuine.

ven under my hand and the seal of the said county, at Morrisville, e said county of Madison and State of New York, on this 28th day April, in the year of our Lord 1873.

EAL.] A. D. KENNEDY, *Clerk.*

43D CONGRESS,
1ST SESSION.

S. 640.

IN THE SENATE OF THE UNITED STATES.

MARCH 30, 1874.

Mr. FENTON asked and, by unanimous consent, obtained leave to bring in the following bill; which was read twice, referred to the Committee on Indian Affairs, and ordered to be printed.

A BILL

To provide a settlement with the Six Nations of New York Indians for unexecuted treaty-stipulations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to appoint a special agent, whose duty it shall be to make a full and complete registry of all such of the Six Nations of New York Indians and of their consanguinous descendants only, who were parties to or beneficiaries of the treaty concluded on the fifteenth day of January, eighteeen hundred and thirty-eight, namely, Onondagas, Oneidas, Cayugas, Tuscaroras, Saint Regis, Stockbridges, Munsees, Brothertowns, and the Senecas other than the Tonawanda band, beneficiaries under the treaty of November fifth, eighteen hundred and fifty-seven, as contained in Schedule A appended to said treaty of eighteen hundred and thirty-eight,

15 which provided for the exchange of about five hundred thou-
16 sand acres of land owned by them and lying in the Territory
17 of Wisconsin for one million eight hundred and twenty-four
18 thousand acres of land lying west of the State of Missouri,
19 within the limits of the present State of Kansas, and other
20 considerations and payments therein stipulated.

1 SEC. 2. That the special agent herein authorized shall
2 be required, under oath, to duly investigate and report to the
3 Secretary of the Interior four distinct lists for each of the
4 nations, tribes, or bands that shall be found to be entitled to
5 participate in the unliquidated considerations named in the
6 treaty of January fifteenth, eighteen hundred and thirty-
7 eight; the first of which shall show the present location of
8 the nation, tribe, or band, and the names of all, individually,
9 that may signify their wish to remain in their present loca-
10 tion and tribal relations; secondly, the nation, tribe, or band,
11 individually, who may signify a desire to remove as a nation,
12 tribe, or band to a new home to be provided for them in the
13 Indian Territory; thirdly, the name of each individual of
14 mature age, and their minor children and wards, who may
15 signify a desire to abandon tribal relations and to become citi-
16 zens of the United States, upon the terms and conditions
17 hereinafter provided; and, fourthly, the name of each indi-
18 vidual of mature age, together with their minor children
19 and wards, who may signify a wish to sever their present

20 tribal relations and unite with any, and if so what, other
21 nation, tribe, or band of Indians, either where they are now
22 located or in the Indian Territory.

1 SEC. 3. That the Secretary of the Interior is furthermore
2 hereby authorized and empowered to assure each of the na-
3 tions, tribes, or bands named in the first section of this act,
4 or individuals thereof, accordingly as herein provided they
5 shall elect, that they shall be indemnified for their lands in
6 Kansas which were taken in eighteen hundred and fifty-eight,
7 under orders of the Secretary of the Interior, and sold for the
8 use of the United States, and their respective proportions in
9 the beneficial provisions to which they were otherwise en-
10 titled as consideration for the conveyance of their Wisconsin
11 lands by virtue of the treaty of eighteen hundred and thirty-
12 eight, upon the basis of the treaty concluded with the Tona-
13 wanda band of Senecas, November fifth, eighteen hundred
14 and fifty-seven, with interest on the amounts, respectively,
15 found to be due from and after that date.

1 SEC. 4. That it shall be the further duty of the special
2 agent herein provided to convene the national and tribal
3 authorities of the respective nations or bands mentioned in
4 the first section of this act, at such convenient times as shall
5 enable him to receive from each the formal written assent to
6 the provisions of this act, and full surrender and relinquish-
7 ment by such nations, tribes, or bands of all their rights sev-

8 erally or in common to the lands lying in the State of Kansas,
9 all claims for their removal to said lands, to subsistence after
10 such removal, and all other claims growing out of said treaty
11 concluded January fifteenth, eighteen hundred and thirty-
12 eight, to the United States, conditioned upon the performance
13 by the United States of the assurances contained in the third
14 section of this act. And to enable said special agent to dis-
15 charge the duties herein imposed, he is hereby empowered to
16 administer oaths to such witnesses as may be brought before
17 him; and in all matters of doubt as to the rights of individ-
18 uals, families, or bands to participate in the benefits of this
19 act, or to have their names enrolled with any nation, tribe, or
20 band, or any other question affecting their rights, he shall
21 carefully examine and reduce all necessary testimony of wit-
22 nesses to writing, which shall be returned with his report,
23 and any decision he may render shall be subject to review by
24 the Secretary of the Interior.

1 SEC. 5. That it shall be the duty of the Secretary of the
2 Interior, upon the completion and review of the facts ascer-
3 tained as hereinbefore provided, to report the same to the
4 next ensuing session of Congress, together with an estimate
5 of the amount required to carry into effect the provisions of
6 this act, stating what is required for the distributive shares of
7 those who may elect to become citizens, and of such as shall
8 elect to remove or change their tribal relations.

1 SEC. 6. That any individual of mature age, member of
2 either of the nations, tribes, or bands herein provided, who
3 may desire to become a citizen of the United States is hereby
4 authorized to file his petition before any district or circuit
5 court of the United States for that purpose; and if he shall
6 prove to the satisfaction of such court that he has managed
7 his affairs with ordinary prudence and intelligence during the
8 five years preceding such application, and that he compre-
9 hends the nature thereof, and the duties and obligations of a
10 citizen, it shall be the duty of said court to issue to him a
11 certificate of citizenship; and on the presentation of a cer-
12 tified copy of such certificate, the Secretary of the Interior
13 shall withdraw from any funds standing to the credit of the
14 nation, tribe, or band to which such individual belongs, the
15 distributive share of such individual, together with the dis-
16 tributive shares of his wife and minor children and wards,
17 and pay the same over to him, and thenceforth the obliga-
18 tions of the United States and of the nation, tribe, or band to
19 which he may have belonged shall cease.

1 SEC. 7. That if any nation, tribe, or band of Indians
2 named in the first section of this act other than those resid-
3 ing in the State of New York shall apply to the Secretary
4 of the Interior to be removed to a new home in the Indian
5 Territory, and if such applicants be the occupants or owners
6 of lands held by them in common, it shall be the duty of

said Secretary to take charge of their property therein, to have the same surveyed, appraised, and sold to the highest bidder, at not less than the appraisement, for cash, and apply the same in the purchase of a new home in the Indian Territory for such applicants and in their removal thereto; or if such applicants have no lands, then the said Secretary may apply to such removal any part of any funds standing to the credit of such applicants, or so much thereof as shall be necessary for the purpose.

SEC. 8. That if any one or more individuals of either of the nations, tribes, or bands named in this act shall apply to change his membership from one to the other, or to some tribe or band resident in the Indian Territory, and the tribe or band of which they propose to become members shall assent thereto in writing, it shall be the duty of the Secretary of the Interior to withdraw the distributive share of such applicant or applicants from the funds of the nation, tribe, or band to which they belong, and to apply the same to the credit of the tribe or band with whom they may unite: *Provided*, That not more than one such transfer, which may embrace one or more individuals of the same band, shall be allowed. And to enable the Secretary of the Interior to carry out the provisions of this act, the sum of five thousand dollars is hereby appropriated out of any money in the Treasury not otherwise appropriated.

43D CONGRESS, 1ST SESSION. } S. 640.

A BILL

To provide a settlement with the Six Nations of New York Indians for unexecuted treaty-stipulations.

1874—MARCH 30.—Read twice, referred to the Committee on Indian Affairs, and ordered to be printed.

I have given the bill in question this case, & will be obliged to the Secretary of War for his opinion touching the same, as a suggestion relating to it.

R B Hayes

12/

I am told by the
Nuns who requested
me to introduce
the bill, that there
are several troops,
D. Prince.

43D CONGRESS,
1ST SESSION.

S. 640.

IN THE SENATE OF THE UNITED STATES.

MARCH 30, 1874.

Mr. FENTON asked and, by unanimous consent, obtained leave to bring in the following bill; which was read twice, referred to the Committee on Indian Affairs, and ordered to be printed.

A BILL

To provide a settlement with the Six Nations of New York Indians for unexecuted treaty-stipulations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, authorized and directed to appoint a special agent, whose duty it shall be to make a full and complete registry of all such of the Six Nations of New York Indians and of their consanguinous descendants only, who were parties to or beneficiaries of the treaty concluded on the fifteenth day of January, eighteen hundred and thirty-eight, namely, Onondagas, Oneidas, Cayugas, Tuscaroras, Saint Regis, Stockbridges, Munsees, Brothertowns, and the Senecas other than the Tonawanda band, beneficiaries under the treaty of November fifth, eighteen hundred and fifty-seven, as contained in Schedule A appended to said treaty of eighteen hundred and thirty-eight,

Lineal descendants, by either parent?

15 which provided for the exchange of about five hundred thou-
16 sand acres of land owned by them and lying in the Territory
17 of Wisconsin for one million eight hundred and twenty-four
18 thousand acres of land lying west of the State of Missouri,
19 within the limits of the present State of Kansas, and other
20 considerations and payments therein stipulated.

1 SEC. 2. That the special agent herein authorized shall
2 be required, under oath, to duly investigate and report to the
3 Secretary of the Interior four distinct lists for each of the
4 nations, tribes, or bands that shall be found to be entitled to
5 participate in the unliquidated considerations named in the
6 treaty of January fifteenth, eighteen hundred and thirty-
7 eight; the first of which shall show the present location of
8 the nation, tribe, or band, and the names of all, individually,
9 that may signify their wish to remain in their present loca-
10 tion and tribal relations; secondly, the nation, tribe, or band,
11 individually, who may signify a desire to remove as a nation,
12 tribe, or band to a new home to be provided for them in the
13 Indian Territory; thirdly, the name of each individual of
14 mature age, and their minor children and wards, who may
15 signify a desire to abandon tribal relations and to become citi-
16 zens of the United States, upon the terms and conditions
17 hereinafter provided; and, fourthly, the name of each indi-
18 vidual of mature age, together with their minor children
19 and wards, who may signify a wish to sever their present

20 tribal relations and unite with any, and if so what, other
21 nation, tribe, or band of Indians, either where they are now
22 located or in the Indian Territory.

1 SEC. 3. That the Secretary of the Interior is furthermore
2 hereby authorized and empowered to assure each of the na-
3 tions, tribes, or bands named in the first section of this act,
4 or individuals thereof, accordingly as herein provided they
5 shall elect, that they shall be indemnified for their lands in
6 Kansas which were taken in eighteen hundred and fifty-eight,
7 under orders of the Secretary of the Interior, and sold for the
8 use of the United States, and their respective proportions in
9 the beneficial provisions to which they were otherwise en-
10 titled as consideration for the conveyance of their Wisconsin
11 lands by virtue of the treaty of eighteen hundred and thirty-
12 eight, upon the basis of the treaty concluded with the Tona-
13 wanda band of Senecas, November fifth, eighteen hundred
14 and fifty-seven, with interest on the amounts, respectively,
15 found to be due from and after that date.

1 SEC. 4. That it shall be the further duty of the special
2 agent herein provided to convene the national and tribal
3 authorities of the respective nations or bands mentioned in
4 the first section of this act, at such convenient times as shall
5 enable him to receive from each the formal written assent to
6 the provisions of this act, and full surrender and relinquish-
7 ment by such nations, tribes, or bands of all their rights sev-

8 erally or in common to the lands lying in the State of Kansas,
9 all claims for their removal to said lands, to subsistence after
10 such removal, and all other claims growing out of said treaty
11 concluded January fifteenth, eighteen hundred and thirty-
12 eight, to the United States, conditioned upon the performance
13 by the United States of the assurances contained in the third
14 section of this act. And to enable said special agent to dis-
15 charge the duties herein imposed, he is hereby empowered to
16 administer oaths to such witnesses as may be brought before
17 him; and in all matters of doubt as to the rights of individ-
18 uals, families, or bands to participate in the benefits of this
19 act, or to have their names enrolled with any nation, tribe, or
20 band, or any other question affecting their rights, he shall
21 carefully examine and reduce all necessary testimony of wit-
22 nesses to writing, which shall be returned with his report,
23 and any decision he may render shall be subject to review by
24 the Secretary of the Interior.

1 SEC. 5. That it shall be the duty of the Secretary of the
2 Interior, upon the completion and review of the facts ascer-
3 tained as hereinbefore provided, to report the same to the
4 next ensuing session of Congress, together with an estimate
5 of the amount required to carry into effect the provisions of
6 this act, stating what is required for the distributive shares of
7 those who may elect to become citizens, and of such as shall
8 elect to remove or change their tribal relations.

Who are those [illegible] for who may be born after the time the census is made?

1 SEC. 6. That any individual of mature age, member of
2 either of the nations, tribes, or bands herein provided, who
3 may desire to become a citizen of the United States is hereby
4 authorized to file his petition before any district or circuit
5 court of the United States for that purpose; and if he shall
6 prove to the satisfaction of such court that he has managed
7 his affairs with ordinary prudence and intelligence during the
8 five years preceding such application, and that he compre-
9 hends the nature thereof, and the duties and obligations of a
10 citizen, it shall be the duty of said court to issue to him a
11 certificate of citizenship; and on the presentation of a cer-
12 tified copy of such certificate, the Secretary of the Interior
13 shall withdraw from any funds standing to the credit of the
14 nation, tribe, or band to which such individual belongs, the
15 distributive share of such individual, together with the dis-
16 tributive shares of his wife and minor children and wards,
17 and pay the same over to him, and thenceforth the obliga-
18 tions of the United States and of the nation, tribe, or band to
19 which he may have belonged shall cease.

1 SEC. 7. That if any nation, tribe, or band of Indians
2 named in the first section of this act other than those resid-
3 ing in the State of New York shall apply to the Secretary
4 of the Interior to be removed to a new home in the Indian
5 Territory, and if such applicants be the occupants or owners
6 of lands held by them in common, it shall be the duty of

said Secretary to take charge of their property therein, to have the same surveyed, appraised, and sold to the highest bidder, at not less than the appraisement, for cash, and apply the same in the purchase of a new home in the Indian Territory for such applicants and in their removal thereto; or if such applicants have no lands, then the said Secretary may apply to such removal any part of any funds standing to the credit of such applicants, or so much thereof as shall be necessary for the purpose.

SEC. 8. That if any one or more individuals of either of the nations, tribes, or bands named in this act shall apply to change his membership from one to the other, or to some tribe or band resident in the Indian Territory, and the tribe or band of which they propose to become members shall assent thereto in writing, it shall be the duty of the Secretary of the Interior to withdraw the distributive share of such applicant or applicants from the funds of the nation, tribe, or band to which they belong, and to carry the same to the credit of the tribe or band with whom they may unite: *Provided*, That not more than one such transfer, which may embrace one or more individuals of the same band, shall be allowed. And to enable the Secretary of the Interior to carry out the provisions of this act, the sum of five thousand dollars is hereby appropriated out of any money in the Treasury not otherwise appropriated.

How would it do to allow the Lady to have his portion
valued & pay for it out of the funds belonging to the
tribe instead of either selling it to strangers or selling
it off — If it [illegible] & enough to them by [illegible] in
fee it would be sold probably to a white man
& thus introduce [illegible] or would be [illegible]

I do not know what bill Seelyford refers to and intended for. I introduced several bills at the request of our citizens of New York Indians

I send herewith the Senate bill. 640

The House Bill expires 1053 also expired — it is known upon a decision of the Committee of the Comptroller general — The Senate Committee will soon make report of a bill much changed from the 1053.

A BILL

To provide a settlement with the Six Nations of New York Indians for unexecuted treaty stipulations.

1874—MARCH 30.—Read twice, referred to the Committee on Indian Affairs, and ordered to be printed.

Hall 1874.

Your letter of 13 and rec'd I went to the Capitol today. Gen. Shanks said he did not know what bill you referred to — when you speak of a bill drawn by "Shanks an assembly man" — the indorsements on this bill in blue ink are by Gen. Shanks. I will attend to sending you the document when any action is taken.

M. R. Speer

[illegible]

IN THE SENATE OF THE UNITED STATES.

FEBRUARY 6, 1878.

Mr. KERNAN asked and, by unanimous consent, obtained—leave to bring in the following bill; which was read twice and referred to the Committee on Indian Affairs.

A BILL

To provide a settlement with the Six Nations of New York Indians for unexecuted treaty stipulations.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Secretary of the Interior be, and he is hereby,
4 authorized and directed to appoint a special [illegible]
5 it shall be to make a full and complete [illegible]
6 the Six Nations of New York Indians and [illegible]
7 neous descendants only, who were [illegible]
8 the treaty concluded at the [illegible]
9 hundred and thirty-eight, namely, [illegible]
10 Cayugas, Tuscaroras, Saint Regis, [illegible]
11 Brothertowns, and the Senecas other than [illegible]
12 band, beneficiaries under the treaty of November [illegible], eight-
13 een hundred and fifty-seven, as contained in Schedule A
14 appended to said treaty of eighteen hundred and thirty-eight,

15 which provided for the exchange of about five hundred thou-
16 sand acres of land owned by them and lying in the Territory
17 of Wisconsin for one million eight hundred and twenty-four
18 thousand acres of land lying west of the State of Missouri,
19 within the limits of the present State of Kansas, and other
20 considerations and payments therein stipulated.

1 SEC. 2. That the special agent herein authorized shall
2 be required, under oath, to duly investigate and report to the
3 Secretary of the Interior four distinct lists for each of the
4 nations, tribes, or bands that shall be found to be entitled to
5 participate in the unliquidated considerations named in the
6 treaty of January fifteenth, eighteen hundred and thirty-
7 eight; the first of which shall show the present location of
8 the nation, tribe, or band, and the names of all, individually,
9 that may signify their wish to remain in their present loca-
10 tion and tribal relations; secondly, the nation, tribe, or band,
11 individually, who may signify a desire to remove as a nation,
12 tribe, or band to a new home to be provided for them in the
13 Indian Territory; thirdly, the name of each individual of
14 mature age, and their minor children and wards, who may
15 signify a desire to abandon tribal relations and to become citi-
16 zens of the United States, upon the terms and conditions
17 hereinafter provided; and, fourthly, the name of each indi-
18 vidual of mature age, together with their minor children
19 and wards, who may signify a wish to sever their present

20 tribal relations and unite with any, and if so, which,
21 nation, tribe, or band of Indians, either where they are now
22 located or in the Indian Territory.

1 SEC. 3. That the Secretary of the Interior is
2 hereby authorized and empowered to
3 tions, tribes, or bands named in the
4 or individuals thereof, accordingly as
5 shall elect, that they shall be
6 Kansas which were taken in
7 under orders of the
8 use of the United States
9 the beneficial
10 [illegible]
11 [illegible]
12 [illegible]
13 [illegible]
14 [illegible]
15 [illegible]
1 [illegible]
2 [illegible]
3 authorities of the
4 the first section of
5 enable him to receive from each the
6 the provisions of this act, and full surrender
7 ment by such nations, tribes, or bands of all their

8 erally or in common to the lands lying in the State of Kansas,
9 all claims for their removal to said lands, to subsistence after
10 such removal, and all other claims growing out of said treaty
11 concluded January fifteenth, eighteen hundred and thirty-
12 eight, to the United States, conditioned upon the performance
13 by the United States of the assurances contained in the third
14 section of this act. And to enable said special agent to dis-
15 charge the duties herein imposed, he is hereby empowered to
16 administer oaths to such witnesses as may be brought before
17 him; and in all matters of doubt as to the rights of individ-
18 uals, families, or bands to participate in the benefits of this
19 act, or to have their names enrolled with any nation, tribe, or
20 band, or any other question affecting their rights, he shall
21 carefully examine and reduce all necessary testimony of wit-
22 nesses to writing, which shall be returned with his report,
23 and any decision he may render shall be subject to review by
24 the Secretary of the Interior.

1 SEC. 5. That it shall be the duty of the Secretary of the
2 Interior, upon the completion and review of the facts ascer-
3 tained as hereinbefore provided, to report the same to the
4 next ensuing session of Congress, together with an estimate
5 of the amount required to carry into effect the provisions of
6 this act, stating what is required for the distributive shares of
7 those who may elect to become citizens, and of such as shall
8 elect to remove or change their tribal relations.

1 SEC. 6. That any individual of mature age, member of
2 either of the nations, tribes, or bands herein provided, who
3 may desire to become a citizen of the United
4 authorized to file his petition before any district or circuit
5 court of the United States for that purpose; and if he shall
6 prove to the satisfaction of such court that he has
7 his affairs with ordinary prudence and
8 five years preceding such application, and shall be
9 heads the nature thereof, and
10 citizen, it shall be the duty of
11 certificate of citizenship, and on
12 fied copy of such certificate,
13 shall withdraw from
14 nation, tribe,
15
16
17 and pay the
18 fees
19 which he may
1 SEC. 7.
2 named in the first section of
3 ing in the State of New York
4 of the Interior to be removed to a new home in the
5 Territory, and if such applicants be the occupants or owners
6 of lands held by them in common, it shall be the duty of

7 said Secretary to take charge of their property therein, to
8 have the same surveyed, appraised, and sold to the highest
9 bidder, at not less than the appraisement, for cash, and apply
10 the same in the purchase of a new home in the Indian Ter-
11 ritory for such applicants, and in their removal thereto; or if
12 such applicants have no lands, then the said Secretary may
13 apply to such removal any part of any funds standing to the
14 credit of such applicants, or so much thereof as shall be
15 necessary for the purpose.

1 SEC. 8. That if any one or more individuals of either of
2 the nations, tribes, or bands named in this act shall apply to
3 change his membership from one to the other, or to some
4 tribe or band resident in the Indian Territory, and the tribe
5 or band of which they propose to become members shall
6 assent thereto in writing, it shall be the duty of the Secretary
7 of the Interior to withdraw the distributive share of such
8 applicant or applicants from the funds of the nation, tribe, or
9 band to which they belong, and to carry the same to the credit
10 of the tribe or band with whom they may unite: *Provided*,
11 That not more than one such transfer, which may embrace
12 one or more individuals of the same band, shall be allowed.
13 And to enable the Secretary of the Interior to carry out the
14 provisions of this act, the sum of five thousand dollars is hereby
15 appropriated out of any money in the Treasury not otherwise
16 appropriated.

Copy of letter of Senator
[illegible] to the
[illegible] of the
[illegible] Congress

1895

1895 – 2nd Sess. [illegible]

Hon. Lyman Cornyn
[illegible]
Washington, in reference to
the Indian claims
[illegible] to state
[illegible] their case.

The same matter on the policy
[illegible] the declining pre-
[illegible] further consideration
[illegible] of the Indian to Sec'y
Secretary should be struck
out.

Geo. S. Conover
Geneva N.Y.

"Book Letters on Indian Affairs 1785-1825"
in New York State Library, Albany

Rev. Samuel Kirkland
Diary 1786 – 1788. Sup of Phelps Gratz in Int.

Journal Sept 23 – December 1. 1788
Agent of the State on a Mission to the Indians
as far as Niagara in relation to Treaties.
Condensed Substance of same

Diary of Rev. Samuel Kirkland.

Copy - From "Letters on Indian Affairs, 1785 - 1825,"
In New York State Library, Albany. —

In the summer of 1786 - I was informed by the Oneida Indians - that several white persons, (names unknown) had obtained leases of small tracts of land of the Onondago's or rather vagrant Tuscaroras on the Ofencango - Sawegea branches of the Susquehannah. -

October 18 - 1786 - was credibly informed that Saml Brown and others had purchased a considerable tract of land of the Onondago's on the Ofencango Sawegea Creeks. -

In March 1787 Several Chiefs of the Seneka nation, told me that Trumper & company, indian traders at Kanadasegea, had obtained a lease of a considerable tract of land, at Newtown on the Tioga - bounded south on the Pensylvania line to extend about 20 miles east & west on said line - & about 8 or ten miles wide. -

about this time, the Oneidas, told me, they had leased a tract of one mile square on Canada Creek (so called) at its junction with Wood Creek - to Archibald Armstrong, for the term of thirty years. —

Sometime in the Summer of 1787, I was credibly informed by the onondagos and some of the oneidas, that the former had leased a tract of land - to Hezekiah Alcot - Indian trador, and Wm Paris of Kanajoharry - on the Kanaghsorage Creek to begin at its mouth or entrance into the oneida Lake - 2½ miles on each side of the river, and to extend 5 miles up said river -

So soon as this negociation was publicly known to the oneidas - it gave general uneasiness, as they claimed the lands on said river, by ancient tradition and national agreement.

The onondagos were summoned by the oneidas to council on the occasion - when they agreed to relinquish their pretended claim on the Kanaghsorage Creek - and to satisfy the Lessees, would grant them the same quantity, viz. of five miles square, at the three rivers, so called - By indian relation to me - writings for the latter tract were given by the onondagos.

In the latter part of octobr. 1787, or begining of November - the oneidas, in a Council called for other purposes - told me they had leased a township of six miles square to their friend Jedidiah Phelph, silversmith at Fort Stanwix for the annual quit rent of 500

skipples of corn, to be ground to be ~~for~~ free and delivered to them - with some other small considerations. —

They also informed me, they had agreed, to lease another township or ten miles square, south of the Brothertown Indians, on the line of property - to - Vaneps - silversmith, of Schenactady and Hezekiah Alcott - Indian trader. the yearly rent to be in proportion to the afore mentioned lease to their friend Mr. Phelps.

About this time - application was made to the oneidas, in full council, by Major Moses Ashley of Berkshire - Massachusetts - to purchase, or take by lease, a small tract of land - of a triangular form, lying north of a tract, - purchased by Brown and others of the onondagos - supposed to contain by estimation, three townships.

The Indians agreed to a lease of said tract - but utterly declined an absolute sale - upon Major Ashleys request the Indians promised in presence of Mr. Dean and myself, not offer the said tract to any other person, till said Ashley should see them again, on the subject, in the month of Jan.y or Feb.y following - In the meantime s.d Ashley was to apply to the Legislature of the state of N. York, respecting the premises.

Major Ashley likewise made application

Pertains to treaties. HUNTINGTON LIBRARY, SAN MARINO, CALIF., HM 8885.

to the Onondagoe - for one mile in width to be annexed to, the purchase of Alcott and Parris - at the three Rivers - the pay to be in proportion to theirs. - It was accordingly promised to him.

The Oneidas, likewise informed me, that several other applications were made to them for ~~a~~ the lease of a township north of the one, they had leased to Mr. Phelps - on the line of property - also for a township at Kanaghsorage.

about this time it was reported among the Indians that Col. John Livingston and others were holding a treaty at Kanadwegea with the five Nations to obtain a lease of their territory - which idea was suggested to me at Albany, on my return from Stockbridge to Oneida.

In the forepart of December (1787) - Col. John Livingston and Dr. Caleb Benton, returned from Kanadasegea by way of Oneida -. Their ~~ne~~ negociations with the five nations, in obtaining a lease of their territory, with certain reserves to the Indians, - and in January 1788 - the lease, they obtained of the Oneidas, - have been made known heretofore. -

In March 1788 - the Oneidas, told me, that they had leased a certain tract of land - to Capt. Colbrath of Fort Stanwix, lying south of the settlement of Stockbridge Indians -

at this time two of the Onondago's informed me, that they had leased a tract of land to Mr. George Harkimer of German flatts - lately - this tract was to begin at the Oswego falls - on the south side of the River - to contain about ten miles square. —

May 7. 1788. I set out from Stockbridge for the Indian Country - at the desire of the Hon.ble Oliver Phelps Esq. of Hampshire - State of Massachusetts - having received an appointment from said commonwealth, to superintend and approve of such purchase as the said Oliver Phelps, should make of the native Indians holding the right of soil, in the western territory, so called, and lately ceded by the state of N. York to the Commonwealth aforesaid. —

The 2nd of June arrived at Kanadasegea - where it was expected to find the Indians already convened, for the purpose of a treaty. - The Hon.ble Mr. Phelps informed me that Col. John Livingston and others of the New York Company of Lessees had contracted with him for a certain number of shares, to extinguish by purchase the Native rights of the Indians, in the Massachusetts cession - or preemptive right which was to be effected by the first of June. - That the time was now passed - and nothing like to be

done on their part.— He, the said Phelps— had determined to take measures to bring about a treaty with the Seneka Indians and dissolve the contract with said Lessees— But upon his making known his intentions, Dr. Benton and Gilbert Agents for the N. York Company— requested him with such importunity to give them a farther opportunity, that he had consented.

About the 13th of June— six messengers arrived from Buffalor Creek— with an invitation from the Chiefs there, to remove the proposed Council at Kanadadegea to the Buffalor— at the same time, utterly refusing to attend at the former— as that was not the proper place of meeting of the five nations the treaty then last fall was partial.—

In the course of a few days— set out in company with the messengers. Dr. Benton and Gilbert— Dean and Swift Interpreters— Hon. Debarge. On the second day of our Journey met Mr. Phelps and Lee— Major Peter Schuyler and Capt. Wendell— who informed me that they had been to Niagara and had a Conference with Col. Butler— Deputy Agent— of Indian affairs) respecting the treaty— they told me, that the Indians were so prejudiced against the Lessees— or N. York

Compy — that nothing could be effected by them — that Mr. Phelps only must appear as the other person in the treaty.

But after our arrival at the Buffalo, and the business of the treaty was entered upon — The Indians addressed Mr. Phelps as representing a distinct body — from the Agents of the N. York Company — and thro' the whole course of the treaty, which continued for near two weeks —

— When Mr. Phelps had accomplished his business with the Indians — Dr. Benton and Elias Gilbert Esqr — produced a writing for the Indians to sign, specifying — a release of the Massachusetts cession — so called — at the same time claiming right by lease to all the lands east of the, eastern line of the aforesaid Massts. cession — to the territory of the Oneida Nation — including all the claims of the Cayoga and Onondago tribes of Indians — with certain reserves to the Indians in their respective territories — This writing, or lease, as I was informed, was grounded upon the lease taken at Kanadasegea in Novr. 1787.

In the forgoing instrument — the agents of the N. York Genesee Company — stipulated to give the Indians of the five nations — the sum of 15000 dollrs — the one half in goods,

the other moiety in specie - to be paid at three different payments - Viz. one third next May or June - an other third at the expiration of a year & soon and after three years, an annual quit rent of 1000 dollars - the one half of which, to be paid in specie - the other, in neat cattle at a reasonable price -

The above mentioned Lease - was accordingly signed - by the Chiefs and Warriors of the six nations, in regular order, by the assistance of Capt. Brant, - witnessed by Coll. Butler - myself and others present on the occasion - about the 9th of July. -

previous to the signing the forgoing instrument - I heard Capt. Brant tell the Indians that the Lessee - had engaged and promised to settle the whole matter with the Legislature of N. York - which removed the objections the Indians had, to treating with them till next Spring - on account of the Governors letter to them -

Some days after our return to Kanadasega - about the 13 or fourteenth of July - I was desired to attend a Counsel at Kanadasega - I make declaration as Superintendant, of the Treaty at Buffalo Creek, of Mr. Phelps's negociation with the Indians there.

At this Council were the Spruce Carrie and

Haghaightakatwo Chiefs of Kalinghyadilon and about 80 warriors - who were not present at the Buffalo - with some who had come from that place since the treaty. —
While I was in the Counsel - there were several speeches delivered by the Indians to Colⁿ Livingston, Dr. Benton and Gilbert - in the course of these speeches, the Sprice (~~warrior and~~ Carrier, and Haghaytaho declared their intention, to meet the Governor of New York at Fort Stanwix - at the time appointed for his treaty.

* See Buffalo & the Senecas pp. 97 — 110

Journal of S. Kirkland. Miss^y. —
Miss^y to the five Nations. from Septem^r 23 to Decem^r
[1788] With some account of their present state and disposition towards the Government of New York, pursuant to instructions from His Excellency Governor Clinton.
* Septem^r. 23^d. - Set out from Fort Stanwix, taking my passage in Esqr Phelps's boate. which I had detained two days at Armstronge for the purpose, - and by the Governors direction.
29th. This day overtook the party of Senekas in the Onondago river, who had lately attended the Governors treaty at Fort Stanwix. They had been detained here several days, by one of their party being very

sick. They requested me not to leave them in their distress as they were short of provisions and upwards of thirty in number. I immediately dealt out part of my store of bread and meat to them and encouraged them to come on the next day with their light canoes and overtake me, at the Cross Lake and I would see them safe to Kanadasega.—

30th This morning very early the party of Senekas came up with us.

Octo. 1st Arrived at Kanadasega. Here met with a number of Senekas and Hayoya's, who were waiting at this place for the return of the party which had attended the Governor's treaty, and had accompanied me from the Onondago River. There were also several Onondago's on the ground who had lately come from Fort Stanwix and bound to Buffalo Creek.—

Our reception was various; some welcomed our arrival with every expression of Joy,—others looked upon us with a jealous and envious eye;—particularly one Jack-Berry-, gave out some threats against the party of Senekas who had attended the Governor's treaty, as having disobeyed the orders of the Chiefs. 6th I was informed by Capt.

Staginal Mss. in the
the Henry A Homes L.L.D.
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Dr. B. & Cl. M—

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aid of several Indians the tumult ceased.
7th Tuesday Had a conference of several
hours with a number of Senekas and Cayogas,
who had been some time here awaiting

The annexed tracing is from the original Mss. in the State Library at Albany and was furnished me by Henry A Homes L.L.D. the Librarian Feb 2. 1882, He writes "I send you a tracing from two places where the name in question occurs"—

This journal is printed in Beauchamps Buffalo and the Senecas and there as well as other places that I have seen this extract printed it is Bl Mb—n. This is evidently wrong, for although the —n is carelessly made, the Dn is just as careless - In the second place it is distinct enough as r on R. Although it was not obvious perhaps how the letter R could make the matter ~~f~~ any plainer than the letter N, it was is clear enough when the fact is made known that Colo John McDinstry to whom the reference undoubtedly is made, was often called Col. McDinster. See letter of Rykeman & Reed to Gov. Clinton Oct 7. 1788 in Hough's Indian Treaties Vol II p 258.

aid of several Indians the tumult ceased.
7th Tuesday Had a conference of several hours with a number of Senekas and Cayogas, who had been some time here awaiting

Noble, of Sheffield, (one of Esqr. Phelps's Agents) and some of the Indians of the measures taken by the antigovernmental party - to prevent the Indians going down to the Governors treaty at Fort Stanwix, and the high scenes they had passed through about two weeks before my arrival. The Chiefs were kept in one continued state or round of Dissipation for near three weeks, seldom sober enough one day, to know what had passed the day before, —

One part of the tumult rose almost to an insurrection — Dr. B. and Ct. M—n — had between twenty and thirty Riflemen under arms for near twenty four hours, and severe threats given out against P. Rykeman and Col. Reed — as enemies to the one party, and as encouraging the Indians to proceed to the Governors Treaty, — and at a certain crisis were peremptorily ordered off the ground, or abide the Consequence. — but by the interposition of Capt. Noble, who appears to be a friend to order, as well as a man of feeling, and by the aid of some several Indians the tumult ceased.

7th Tuesday Had a conference of several hours with a number of Senekas and Cayogas, who had been some time here awaiting

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for their friends to return from the Governor's treaty. In this Conference I communicated to them, the issue of the late treaty * and settlements made by Government * with the Onondagos and Oneidas. — The female governess of Genesee behaved well, and was not afraid to speak her sentiments on the occasion I was also informed by pretty good authority that half a township of land south of the outlet of Cayoga Lake * and three hundred pounds in cash, were given, or stipulated for, to a certain Lieut. Doxteder, living near Grand River (formerly of Kaghnawage) in Montgomery County) to relinquish his purpose of going to Governor Clintons treaty — and use his influence with the Indians to dissuade them from attending the said treaty.

In a private Conference with a young Buffalor Chief, called Sagohhewatha, he earnestly requested me to go myself to Buffalor Creek * and inform the Chiefs there of the real state of things, and put their minds right; that a party spirit had gained such an influence among them that no verbal message would effect the purpose; he also advised me not to speak freely upon this subject * indis-

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criminately, while on that ground.—
The Seneka Warrior, called the Infant, (son of the old Chief- Sagwayeenqwalaghton & Lingwayeenqwa-lighton) and who had ever been the most active person in the Antigovernmental party, now declared that he would have nothing more to do with that party, and soon gave out publickly, that he was determined, at all events to accompany the first Indians that should go down to Albany the ensuing winter. A young Cayoga, belonging to one of the principal families of that tribe, asked me if it was my real opinion that the Governor of N. York would hold a treaty with them:— he then expressed himself with tears- that the sum of his wish, for the good of his nation, was to have one township, instead of one mile square of land reserved for their use.——

9. The Indians arrived, with the Belt and speech to the Senekas &c. The import of which soon spread thro' the Camp, and occasioned a change of Countenances, and no small stir.—

11. Saturday- I was this day informed, that Mons.r Debarge* - was to set out the next day, for Buffalo Creek, and take with him the Infant, and the Seneka Indian, who was intrusted with the Governors Message,

* Dominico Debartzeh - see Hough 2nd testis Dominique - see Hough

and if necessary - to extend their Journey to Niagara, with a letter from Col. M.* — to my friend Coll. B. — It was carefully reported that the Governors message & might produce some revolution among the Indians & unfavorable to Mr. L — n's interest, and the Infant would soon disaffect the minds of all the Indians & in this quarter if not removed, as he was an obstinate, haughty, persevering fellow, - and that my friend Col B — should be prevailed upon, if possible, to detain the Infant in his vicinity (neighborhood) till next Spring. ----

12. L. Day — The formentioned Company set out - agreeably to the information I had yesterday of their design —

13 Monday — I set out myself this day for Genesee, having a little business to do there for Mr. Phelps; travelled 16 miles on foot, then hired a horse —

15 arrived at Genesee; the next day visited the Big-tree; found that the Mohawks had been to Kalongh gadelon (Kalinghgadelon), a Village about 30 miles South of Genesee & and had passed by the Big-tree's (Dree's) Village but one day before my arrival —

On conversation with the Big-tree (Tree) found my information of Mr Delarge's bus-

* Col. John McKinstry or McKenstrie see my Mss ante

iness to be exactly true in every particular.—

17. Accomplished the business for Mr. Phelps, and fixed the stake for the southern boundary line of his purchase at the fork of the Genesee. Set out the surveyor; seven Indians present. I may here just observe that the Indians had previously insisted on my being present at the fixing of this stake, and taking the right direction.—

18. Spent the most of this day with a number of the Senekas on public business.— I was here informed, that some threats had been given out against the old Onondago Chiefs, Viz: Black Cap and Kanakatowa Kaneektow, that, on condition of that part of their nation residing on the Buffalo, should have no share in the late sale of their territory to the Government of N. York, that their lives should pay for it, and other evils should come ensue. There were also some unjust and cruel reflections cast upon the Governor in, his late negociations with the Onondagos, "That the treaty was "partial; that he had taken the advantage of the absence of many of their Chiefs"— After a lengthy and minute explination of the settlement made at Fort Stanwix, I made the following short address to

them - "My children; I always speak freely
"with you on every subject which I think
"concerns your interest; I have heard the
"voice of the birds, since I have been among
"you = by the voice, tis an evil bird; let me
caution you against listening to such reports.
"I am sorry to tele you, I have heard, since
"I have been among you, evil things
"spoken of Governor Clinton, and his treaty
"at Fort Stanwix - They are most unjust
"and unreasonable; such as no good man
"could possibly report, unless thro' entire
"ignorance. Let me ask you; did he not
"repeatedly send the invitation belt, even
"to Buffalo Creek?; and come himself all
"the way from N. York to Fort Stanwix,
"and then wait many days and weeks
"in expectation of your arrival? = and ex-
"ercised all the patience, too, out of regard
"to your good -?: how ungenerous is it to
"suggest the idea, as though the Governor
"chose, a partial treaty -

But you yourselves, my Child.n, know where
"these reports originated --- Be cautious
"therefore, how you reflect on those who have
"authority; For all their transactions of a
"public nature must stand immovable;
"because the voice of the whole is in them.
"But the designs of evil minded persons,

individuals, so soon as they come to the "light aze blown away; they Cannot stand "befor the light and power of the Chiefs, "not a moment."

"Be patient, and hearken to good Counsel, "and all your public concerns will, by and "by, be adjusted to your satisfaction."

To this I received their hearty thanks. The Indians appearing to be well pleased satisfied and sufficiently informed, I concluded it was expedient for us to proceed farther westward. I accordingly hired two Indians with their horses to make the more dispatch to accompany me.

21. Called at Taghnawade, [TONAWANDA] — a village about 30 miles on this side the Buffalor. The chief man was not at home, but gone to Niagra; — was informed that Mr. Dobarge had passed this but two days, and in a drunken frolic of the Indians had like to have been killed by the Infant, and another Indian belonging to this village.

22. In the Evening reached Niagra, after a most fatiguing day journey, having travelled near two days and part of one night in the rain.

I here found the Infant with his Comrade; spent part of the morning

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with them.

23. Waited on Col.l Butler. In conversation with my friend, received every necessary information with respects to the state of the Indians &c, &c, and the intelligence I rec.ed at Kanadasega relative to Mr. D.(1) and Col.l (2) McB's letter were well founded — without the least exaggeration.

The Infant, however was very soon dismissed and sent back, and advised to go on his hunt, till he should hear in the course of the winter, the result of their chiefs.

It was Col.l B.s opinion that if Government designed another treaty, on condition the one intended in January should fail, it would be more to the general satisfaction of the Indians and less expensive to the State, to hold the treaty at Kanadasega, or Buffalo Creek, than any other place, and that two or three Commiss.rs (Commissioners) would answer every purpose which the State could wish, for a general settlement with the Indians.

Saturday, 25th. Left Niagara for Buffalo Creek. Was advised to travel on the west side of the River, as some of the Buffalo

1 De Barge or de Bartzch — 12) McBeath

Indians were expected to be on their way to Niagara, by way of Fort Erie, particularly the Chief called Skendy-ough-qwatte (Skendysoghqwatti); the second man of Influence and character among the Senekas at the Buffalo.

This man I was advised by all means to see and have a conversation with:-

27. Met with the above mentioned Chief near Fort Erie, with whom I had an agreeable conversation, and, I believe, to a very good purpose.- Here detained several days, by not having a pass:- was obliged to hire an express all the way from this to Niagara, to procure one.-

31.- Early this morning reached the capital Village on the Buffalo.- The Chief sachem, called in English The Farmers Brother, alias Oghncaugewas (Oghnegwaingwas), immediately sent off runners - to the Onondago's and Cayoga settlements, and assembled the Indians before noon, when I was introduced - and delivered my message - - and continued in council with a small number till near midnight. The onondago's were desired by the Farmers Brother, to attend again the next day, early in the morning.-

To remove some difficulties that seemed

to be in the minds of the Indians, and some unreasonable reflections cast upon the treaty at Fort Stanwix, as partial, I thought myself justifiable in making the following addition to the Governors invitation belt:

"Sachems and Warriors:—Be assured it was "not the Governor's intention, to call a "partial treaty, in the month of January, "while your Chiefs and warriors were are at "Onondaga. He, and all others, expected "their return from that treaty even by this "time."

—His intention has always been, for a general treaty, looking upon your prosperity and peace as one. 'tis now two years since he has had this in view mind—and proposed it to the Governor of Massachusetts—which, had it taken place, would have prevented some partial (and what the Governor and his Chief chiefs think consider) as unjustifiable and wicked treaties with individuals.

You all know, that his invitation belt reached your ears in this quarter, more than once, calling you to his treaty at "Fort Stanwix.—whose fault (was it) that there was "not a complete representation?—Nevertheless, my Children, compose your minds

deliberate with ease and an open mind.
be assured that the Governor of the State
of N. York, is so concerned for a general
adjustment of your affairs, and to secure
you a permanent good in establishing
your peace, and good order among his
subjects — on condition that your Chiefs and
warriors do not return from the South-
ward, by the month of January — be assured,
he will meet you at any place you shall
point out, from Albany to even Buffalo
Creek, the next Spring, or beginning of summer
summer — but your voice he expects certainly
"to hear" —

Nov. 1 — The addition I presumed to make,
with some little alterations as to time
and place, in the Governors speech,
united all the Onondago's in favor of
Government, and soon gave them the
ascendency in council — several Cayogas
expressed their approbation to some of
the Onondago's — ~~in favor of~~ but had
no voice in the public Council — Their
council fire being extinguished, accord-
ing to ancient usage, by the late
death of Legacayon, their Chief —
The ceremony of Condolence must be
performed, before they can transact
any national affair. —

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towards Evening, all matters were adjusted with great peace and unanimity, when the following speech was delivered to the Governor, with three strings, by the Farmers Brother, Speaker —

Brother, Governor of N. York.

Let him attend:—

We have now heard your voice; we have, in reality, heard your voice at this our Council fire, on the Buffalo.

Brother, you have made us fully acquainted with your first and good intentions respecting us in this quarter, and that you regard the ancient usages and covenants that have subsisted betwixt our forefathers for a long time — that your Eye will be upon them in all your transactions of peace, and brightening the chain of friendship.

Brother! we thank you that you have made us acquainted with your settlement with the Oneidas, and that they are so well pleased with it.

Brother. our minds were much divided respecting the Onondagos' settlement with you at Fort Stanwix. at our first hearing the voice of the Birds, we were much surprized, as tho' you had not dealt openly and fairly with them, in

negociating with a small part of the Nation.

Brother, our minds are composed, and we believe you will do right — that justice will mark all your steps, and all our national concerns of peace, will be adjusted and settled in due time.

Brother, attend. —

Your invitation string has reached our Ears, taking us by the hand, and leading us to Albany, in the middle of winter.

Brother, — possess your mind in peace; a few of us only are left at home to watch the council fire. — Our Chiefs and warriors are gone a great distance, on business, which concerns our whole Island. — I mean the Congressional treaty at Muskingum, where will be deputies from all the Indian Nations.

Brother. — If the Great Spirit shall be merciful to them, and return them in peace to our Council fire at this place, then all these matters shall be carefully laid before them, and with their result you shall be made acquainted. — It may be they will deputize a number of young Chiefs and warriors to meet you at in Albany agreably to your proposal, in

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the month of January. perhaps they will not return seasonably from the Muskingum for this Journey; should it be otherwise, they will appoint a place and time to meet you.

Brother - the Cayogas are in darkness; their Chief Tecacayen is no more!"

Brother - this is all we have to say:- three strings

N.B. This string is not to be considered as a return of the invitation belt, but that he may know we have heard his voice.

Nov 3 - Monday - about 8 o'clock in the Evening arrived at a Village called, Kamondai-ough, on the Genesee, west Branch, about 12 miles north of Kalonghiyutilough, the Spruce Carrier town. at the first mentioned Village, resided a white man by the name of John Thanongighkon, taken prisoner when a boy, now married into a Cayoga family: he has the entire command of this small Village, and is most respected by the Indians. I thought it necessary to acquaint him with the state of things, and gain his influence. I accordingly related to him with some others, the Governor's message and their answer from Buffalo Creek. he expressed his entire approbation - and

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returned me many thanks.
From this I proposed to visit the Prince Carrier, at Kalorigh Gadilough, but my horse began to fail me, and the travelling had become extreme bad.
4- Lodged at the Governor's Village. The Chief, with all the warriors assembled in the evening, and desired to know, what had taken place at Buffalo Creek. I gave them a full and particular account relation of all that passed there.
The Governess had set out for Niagara near a week before my arrival here, that I had not her aid here in the Council.
~~12- The Big tree with a number of warriors~~
5- Called at the Big Tree's tree.; The Little Beard not being at home, was requested to wait a few days for his return.
12- The Big tree with a number of warriors came to my lodging, and after some conversation, addressed me as follows-
"Father, attend:- and hear my words, and after I have done, ~~with~~ write them down with exactness, and send them to the persons to whom I shall speak-. My speech is to the Chief of the 13 United States, in Congress assembled.-
"Brother, let them hear and attend-;

We your Brothers of the four nations are in
"much trouble and perplexity - we are drawn
"and pulled every way. Our peace is like
"to be broken; Councils and treaties are held
"here, and held there, and they speak
"different language. The Bostonians will
"not be quieted with what we have
"agreed upon here; they will not let
"people settle down peacebly upon lands
"we have leased to them. -
"Brothers as you are the great Council of
"the U.S., we wish you to interpose
"twixt the Bostonians and the New Yorkers,
"and exhort them to a speedy settlement
"of their disputes about our lands which
"we have leased! - !
"Father - give my compliments to Governor
"Clinton, and tell him I shall receive no
"more goods, nor money from Kanadasega,
"till these disputes are settled and I hear
"from ~~them~~ him, and then I will take
"my share - Bigtree - Kalondowanca

Three Things -

To the above, for the sake of the warriors
present, I made the following reply: -
- My Son - I may ask you, if you are in
earnest, in what you have now delivered
for Congress? - That you are ignorant of
the ground of these disputes, and different

sentiments among Counselors, cannot possibly be — The Governor of New York hath expressly told you of a full and most amicable settlement betwixt his state and that of Massachusetts, with regard to preemptive right, &c. — and whose subjects have been disobedient: — He here interrupted me with a smile, and said, he did not care, that was no matter, let the speech go* not as it was, with Big Tree's Compliments to Governor Clinton, and tell him that he would receive no more money* from Kanadasega till he heard from him.

There is now a general expectation among the Indians* that the Governor of the State of New York will at all events hold a treaty with them the ensuing spring, if not effected this winter —

25 — received a message from the Oneida Chiefs, earnestly requesting a visit from me before I left these parts — Good Peter brought the letter* and informed me of some uneasiness subsisting betwixt the warriors and their agents, at the treaty, and wished they might be immediately treated, for the peace of the nation. —

December 1st spent most of the day with Beech Tree — Gahsawda (Cahsaqueda) — Big Tree and others;

with Beechtree, Gahoanda-Bigtree and others;- towards evening I- parted with them.-

The Reverend Samuel Kirkland appeared before the Board of Commissioners at Albany the Day January of 1799. and pursuant to Instructions given to him by the Commissioners at Fort Schyler the 20th of September to give to the Seneca & Cayuga nations of Indians with messages to them & to use his Endeavours to bring a Representation from those Nations to New York or Albna sufficient to hold a Treaty with the Commissioners for the sale of their Lands.

[Note.- These lines written over the preceding words are in direct imitation of the original Manuscript. I shall continue to place these lines wherever I find them through the rest of the paper-

Copyist.]

(See Hough's Ind. Treaties 257-210)

The Substance of the pact of Mr. Kirkland:-that he arrived at Canadasega the 30th of the same month ~~being detained on his way to assist the Indians who were returning from the Treaty.~~ That he there met a number of the Seneca & Cayuga Nation, some approving and others being jealous of the treaty held

at fort Schyler, ~~that he was then informed by Capt Soller of Sheffield~~, that ~~till about two weeks prior that time the Indians~~ had been kept in a Continued State of Intoxication and dissipation for three weeks to prevent their going on to the Treaty that Dr B- and Coll M- had between twenty and thirty Riflemen in arms for Twenty four Hours and gave out severe Threats against P- Rikeman and Coll Reed for bring Enemies to their Party and Friends to the Government in persuading the Indians to attend the Treaty at fort Schyler and were ordered off the Ground or abide the Consequences- That he communicated to ~~the Chiefs of t~~ a number of the Seneca and Cayuga Nations ~~the Issue of~~ the Treaties made with the Onondagos and Oneidas at fort Schyler, which the Governess of Seneca confirmed. ~~That he was informed that large Rewards had been given or stipulated for to a certain Lent Donledee to relinquish his purpose of going with the Indians to the Treaty and to dissuade them therefrom~~ -

-That he ~~was persuaded by a young Buffalo Chief called Sagrhnnewtra~~ conceived it necessary to go to Buffalo Creek and inform the Chiefs there of the true State of things ~~and put their minds right as a party spirit was among them and that no verbal message could~~

~~answer. That the Seneca warriors called the Infant who was here to join attached to the party opposed to the State now declared he would have nothing more to do with them but would go down to Albany with the first Indians that went the ensuing winter to a Treaty~~

That on the Tenth of October the Indians arrived with the Belt and Speech from the Governor which was soon communicated thro' the Camps and occasioned ~~a change of Countenances and no small stir and had a good effect.~~

that on the 13th he set out for ~~Seneca~~ Geneseo where he arrived the next Day, ~~being before informed that Mr. Jacob Dehaye was to set out for Buffalo Creek with the Infant and the Seneca Indian who was intrusted with the Governors Message and if necessary to go to Niagara with a letter for Col. Mc-Kee & to all B. and that it was apprehended the Infant might be prevailed on to detain the Infant till Spring as he would alter the mind of the Indians in that Charity on the receipt of the Governors Message.~~

That he and visited the Big tree at his Village found his information here respecting Jacob ~~Jacob who had passed by that way to be true~~

~~That he~~ land, zipped ~~fixed~~ the Stake for the Southern line of Mr Phelps' purchase at the fort of the Genesee, set out by the Surveyor, being previously requested thereto by the Indians

- That on the 26th found that threate had been given out against the Onondago Chiefs Black Cap and Kaheektoha by the Onondagos residing at the Buffalo Creek in supposition of their having no part of the sale of their Onondago Lands at the late Treaty and blamed the Governor in that Negociation. That in a formal address he vindicated the × Conduct of the Governor and Commissioners. Explained to them fully the Principles of the Treaty and that their jealousies had arisen from the misrepresentations of designing men, ~~which~~ This speech for which they thanked him produced the desired Effect the Indians being perfectly convinced and satisfied

- That he found it necessary to proceed farther westward and on the 22nd arrived at Niagara where he found the Infant with his company. and waited on Col. Butler from whom he received every information respecting the Dispositions of the Indians ~~the Infant being soon sent back and advised to goon his point till he should~~

hear from the Result of the Chiefs
- That Col Butler advised that if the intended Treaty at Albany should not succeed it would be best to have one at Kinadasago or Buffalo Creek and that Two or three Commissioners might answer the purpose
- That on the 25th he left Niagara and travelled by fort Erie to meet a Chief called Skendyoughgwatte the second man of Influence among the Senekas of Buffalo and had a conversation with him, ~~which~~ to good purpose as he supposes/
- The next morning he reached the capital Village on the Buffalo where the Chief Sachem called the Farmers Brother alias Oghneegwas assembled the Onondagos and Cayugas to whom he delivered this message and held a Council, which was again opened the next morning when to remove their Difficulties and reflections respecting the late treaty as partial he made an addition to the Governors Invitation Belt by Informing them that it was the Governors Intention to have had a general treaty, that they had timely notice, that he was equally concerned for their good and in Case their Chiefs did not return from Muskingum by January

he would meet them at any place they should choose from Albany to Buffalo Creek the next Spring or Summer.
The Onondagos were soon united in favour of the State and had the ascendency in Council. the Cayugas there had no voice in the Council, but expressed their approbation, by reason of the late death of their Chief Segacagos. all matters being adjusted with great Peace and unanimity. The Farmers Brother with three strings delivered ~~the following speech~~ for the Governor, approving of his message

Brother Governor of New York. - Let him attend — ~~We have now heard your voice re-~~

~~N.B. this string is not to be considered as a Return of the invitation Belt, but that he may know, we have heard his Voice~~ - That on the 3rd of Nov. he arrived at a Village on the Genesee west branch called Kanondaiongh ~~and visited a white man by the name of John Thornaugh-ighbor, married in a Cayuga Family and of great Influence, related to him the Governors Message, and the Answer of the Indians at Buffalo Creek, he expressed his entire approbation and~~ returned his ~~Thanks~~ and

—That the next Day he lodged at the Governess' Village, ~~who was gone to~~ ~~Niagara~~ and here he informed the Chiefs and warriors present of all that had passed at Buffalo Creek.

—~~that~~ he then went to the Big tree: by whom he was addressed in the Presence of the warriors as ~~follows~~

~~here take in the speach and answer~~ in a speach favourable to the views of the State. ~~and desire~~

—That there was a general Expectation and desire of the Indians of holding a Treaty the ensuing spring if ~~not in the winter~~ if the same should not take place in the winter

—~~that on the 25th he received a letter message from the Oneida Chiefs requesting a visit from him respecting some uneasiness subsisting between the warriors of that nation and their agents which they wished to be accomodated for the peace of the Nation~~—

—That he spent a Day, being the first of December with the Chiefs of Oneida in settling their Differences—

Note—I Have copied, as nearly as possible the original Manuscript, the writing at times being very difficult to decipher— Copyist.

An endorsement on the back of this MS. of early date supplies 1786 as the year in which the events from Sept. to December occurred.

W. Homes Lib.

June 19. 1880.

The 2d journal in the Library volume is an independent MS. on different paper and in different form, and follows immediately after the first MS.

N. Y. State Library.
Albany June 20/80.

Dear Sir;

The copy of the ms. journals of the Rev. Mr. Kirkland has been ready for several days & has not been forwarded on account of the absence of the gentleman who had arranged with the copyist.

The ms. is now sent without a memorandum of the cost for the same reason.

The charge per fol. will be as is usual in such cases, & an account for the same will be transmitted to you in a few days. $7.2

very truly yours

Hert Holmes,
Lib'n Gen. Lib.

Mr. George S. Conover,
Geneva, N. Y.

P. S. There was one word in the ms., see the last one, which was not deciphered. In the copy, p 31 see the word marked with a cross which I have imitated for the form.

H. H.

46TH CONGRESS, 3d Session. | SENATE. | REPORT No. 760.

IN THE SENATE OF THE UNITED STATES.

JANUARY 17, 1881.—Ordered to be printed.

Mr. EDMUNDS, from the Committee on Private Land Claims, submitted the following

REPORT:

[To accompany bill H. R. 3132.]

The Committee on Private Land Claims, to whom was referred House bill No. 3132, entitled "An act to confirm the title to certain lands in the State of Ohio," having carefully considered the same, respectfully report as follows:

By the treaty of 29th September, 1817 (vol. Indian Treaties, p. 163), between the United States and the Wyandotts, Seneca, Shawnees, and Ottawa tribes of Indians, 640 acres of land were granted to the children of the Shawnees chief, Captain Logan, and the same was to be ascertained and set out accordingly. By the treaty of 17th September, 1818 (vol. Indian Treaties, p. 179), between the same parties, it was agreed that this land should not be alienated by the children and heirs of Logan without the consent of the President. On the 18th day of April, 1821, by patent of that date, the President executed the provision in the first named treaty, and conveyed to the children of Logan the 640 acres by metes and bounds. It is alleged, and, as the committee believe, truly, that the children of Logan soon afterward conveyed the land with the consent of the President, although the record evidence of such conveyance is not to be found. An ancient fragment of a deed, partly destroyed by mice, is produced, of which sufficient is left to show it purports to be a conveyance of this land, and on which is indorsed, probably in the handwriting of the Indian agent, what purports to be a copy of a letter from John C. Calhoun, then Secretary of War, to the Indian agent, stating that the President does consent to the sale. It is alleged, also, and the committee believe truly, that for more than 50 years there is a continuous chain of title, which has been accompanied by possession, to the present occupants. But inasmuch as the United States parted with all its title by patent, the question of present ownership is purely one of private right; it is thought that the United States ought not to undertake to do more than to waive and relinquish the limitation before mentioned upon the power of the children of Logan to convey. The committee accordingly recommend that the bill be passed so amended as to conform to this opinion by striking out the lined words and inserting those in italics.

O

47TH CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 2001.

INDIAN TREATY OF BUFFALO CREEK, NEW YORK.

MARCH 2, 1883.—Referred to the House Calendar and ordered to be printed.

Mr. SPAULDING, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 7559.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 7559) to provide for a settlement with the Indians who were parties to the treaty concluded at Buffalo Creek, in the State of New York, on the 15th day of January, 1838, for the unexecuted stipulation of that treaty, respectfully report in favor of the passage of the bill for reasons appearing in the accompanying letter of the Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, February 9, 1883.

SIR: I am in receipt, by department reference, of a communication from J. R. McCarty, clerk of the Senate Committee on Indian Affairs, dated January 29, 1883, in which he incloses the "Petition of the Six Nations of New York Indians relating to Kansas lands," and states that the "committee will be glad to receive from your department any information or suggestions which you may wish to communicate regarding the subject."

The petition sets forth that by certain treaties between the New York Indians and the Menomonees, the former purchased of the latter certain lands in Wisconsin, which lands were secured to the New York Indians by the treaty between the United States and the Menomonees, concluded February 8, 1831 (7 Stat., 342); and that by the treaty of January 11, 1838 (7 Stat., 550), they ceded the lands in Wisconsin acquired from the Menomonees to the United States, in consideration for which the United States agreed to set apart a tract of country situated west of the State of Missouri, in the Indian Territory, of 1,824,000 acres of land, being 320 acres for each one of said Indians, which lands the said Indians have never received, or the equivalent of land in Wisconsin ceded to the United States.

They ask as relief on account of the above claims that a fund be appropriated sufficient to build a high school for each tribe of said Six Nations and to support the same.

The petition is signed by delegates on behalf of the Senecas, Cayugas, Oneidas, Tuscaroras, and Onondagas.

The history of the negotiations between the New York Indians and the Menomonees and Winnebagoes, and the action of the government in connection therewith, may be found in Senate Ex. Doc. No. 189, Twenty-seventh Congress, second session.

By the treaty of February 8, 1831, between the United States and the Menomonees (7 Stat., 342), the latter, although protesting that they were under no obligations to recognize any claim of the New York Indians to any portion of their country, and that they neither sold nor received any value for the land claimed by these tribes, yet agreed that such part of the lands described as the President might direct might be set apart as a home to the several tribes of New York Indians who might remove and settle upon the same within three years from the date of the agreement.

By a supplemental agreement concluded February 17, 1831 (7 Stat., 346), this limitation was changed so as to require the President to prescribe the time for removal and settlement.

The claim of the Menomonees that they had not received any value from the New York Indians for the lands in Wisconsin does not appear to be well founded. In the treaty between these Indians, August 18, 1821, approved by the President February 9, 1822, the receipt of $500 is acknowledged, and a receipt, dated September 16, 1822, acknowledges the payment of $1,500 in goods.

The preamble to the treaty between the United States and the New York Indians concluded January 15, 1838 (7 Stat., 550), recites that, with the approbation of the President of the United States, purchases were made by the New York Indians from the Menomonee and Winnebago Indians of certain lands at Green Bay, in the Territory of Wisconsin, and after much difficulty and contention with those Indians concerning the extent of that purchase, the whole subject was finally settled by a treaty between the United States and the Menomonee Indians, concluded in February, 1831, to which the New York Indians gave their assent on the 17th of October, 1832; that by the provisions of that treaty 500,000 acres of land were secured to the New York Indians of the Six Nations and the St. Regis tribe as a future home, on condition that they all remove to the same within three years or such reasonable time as the President should prescribe; and that the President is satisfied that various considerations have prevented those still residing in New York from removing to Green Bay, &c. In view of which facts the treaty was made.

By the first article of that treaty the several tribes of New York Indians ceded and relinquished to the United States all their right, title, and interest to the lands secured to them at Green Bay by the Menomonee treaty of 1831, except a certain tract reserved.

By the second article the United States, in consideration of the above cession and relinquishment, agreed to set apart as a permanent home for all New York Indians then residing in New York, Wisconsin, or elsewhere, a certain tract of country west of the State of Missouri, containing 1,824,000 acres, being 320 acres for each soul of said Indians as then computed; "To have and to hold the same in fee simple to the said tribes or nations of Indians, by patent from the President of the United States, issued in conformity with the provisions of the third section of the act" of May 28, 1830 (4 Stat., 411). (The section referred to provides that such lands shall revert to the United States if the Indians become extinct or abandon the same.)

By the third article it was agreed that such of the tribes of the New York Indians as did not accept and agree to remove within five years, "or such other time as the President may from time to time appoint, shall forfeit all interest in the lands so set apart to the United States."

By the fifteenth article the United States agreed to appropriate the sum of $400,000, "to be applied from time to time under the direction of the President, in such proportions as may be most for the interest of the said Indians, parties to this treaty, for the following purposes, to wit: To aid them in removing to their homes and supporting themselves the first year after their removal; to encourage and assist them in education and in being taught to cultivate their lands," &c.

This treaty was proclaimed April 4, 1840. Disputes having arisen under it, growing out of the claims of the Ogden Land Company to the lands in New York, it was modified in some particulars by a treaty with the Seneca Nation, concluded May 20, 1842 (7 Stat., 586), but the modifications do not appear to affect the articles heretofore quoted from.

Contemporaneous history shows that this treaty of 1838 was made, not in the interests of the Indians, but for the benefit of the land company which owned the right of pre-emption in the New York lands, and which, therefore, was anxious to secure the removal of the Indians.

There appeared to be no desire on the part of any considerable number of the Indians to remove, and the idea of the removal of small parties was discouraged by the department.

On the 8th of May, 1845, this office reported to the Secretary of War that a letter had been received representing that a portion of the Senecas, and others of the Six Nations then ready to remove, were exceedingly anxious on the subject, and wished to know whether the United States intended to aid them in their removal.

It was stated that there were some 4,000 Indians in New York; that about 250 of them desired to remove, and that it was not seen what advantage would arise from the removal of this small number. It was recommended that no action be taken, which was approved by the department.

The sum of $20,477.50 had been appropriated on the 3d of March, 1843, for the removal of New York Indians, this estimate being for 250 persons; and being part of the $400,000 agreed to be appropriated by the fifteenth article of the treaty.

On the 28th of May, 1845, Dr. Peter Wilson, accompanying a delegation of New York Indians, in a communication addressed to the Commissioner of Indian Affairs,

asked the following question: "Will those who do not remove within that time (five years) forfeit their claims to the western country? This is an important question, and I desire you to answer it in writing." I do not find that any answer was given.

Other representations regarding the removal having been made, this office, on the 12th of September, 1845, offered to appoint Dr. Abraham Hogeboom an agent for the removal of the Indians.

Dr. Hogeboom accepted the appointment, and on the 7th of November, 1845, informed the office that 260 Indians had been enrolled, and that there appeared to be no doubt of the movement taking place. Ten thousand dollars was sent him on the 4th of that month to assist in the removal of the 260 persons.

On the 8th of December, 1845, he was informed that as the lakes and rivers had frozen over the party must not start. It appears, however, that Dr. Hogeboom, notwithstanding the positive instructions of this office, started with a party of about 200 some time in May, 1846, and on the 9th of July, 1846, Agent Harvey reported the arrival of 201 Indians in Kansas. These Indians suffered extremely from destitution and sickness; many of them died, and most of the survivors ultimately returned to New York. No further effort at removal appears to have been made, and only about $13,000 of the $20,477.50 was expended. No further appropriation for the removal of these Indians appears to have been made.

It will be observed that these 201 Indians removed after the expiration of the five years fixed in the treaty. No other time for removal appears to have been named by the President.

This appears to be the only organized attempt at emigration ever made, although various parties claiming to be New York Indians settled in Kansas at different times.

The number of those residing there in March, 1859, was reported to be 303, quite a number of them being Canada and Wisconsin Indians not entitled to lands under the treaty of 1838.

June 16, 1860, patents were issued to 32 New York Indians for 320 acres of land each, in Kansas, which is all the land that has been patented under the treaty of 1838.

On the 4th of December, 1868, a treaty was concluded with the New York Indians, by the terms of which they surrendered to the United States all claims severally and in common to lands west of Missouri, and all right and claim to be removed there, and for support after removal, and all other claims under the treaty of 1838, except their rights to the reservation then occupied by them. This treaty was not ratified by the Senate.

Senator Buckingham, in his report (see Report No. 145, Forty-first Congress, second session), took the ground "that no right to land in Wisconsin and west of Missouri was ever vested in the New York Indians, except the right of occupancy; that an equivalent for the amount paid by them to the Monomonees for lands in Wisconsin was received by those who removed to and settled upon those lands; that the Indians who never removed to the lands set apart for their permanent residence in Wisconsin, and who never removed to and became located on lands set apart for them west of Missouri, did not comply with the requirements of the treaties, and are not entitled to any interest in the lands nor to their proceeds."

A treaty was concluded with the Tonawanda band of Senecas, November 5, 1857 (11 Stat., 735), by which the Indians relinquished all claims under the treaties of 1838 and 1842, in consideration of which the United States agreed to pay and invest the sum of $256,000 for the said Tonawanda band. This amount is understood to be their pro rata share of the $400,000 removal fund, and of 320 acres of land each at $1 per acre.

This treaty, Senator Bucingham says, should not be regarded as a precedent by which the government should be bound or guided, as it authorized the payment of moneys to the members of that band, to which they had no claim under former treaties.

It is true that no rights to lands in Kansas, except that of occupancy, ever *vested* in the New York Indians (except the thirty-two who received patents), but they were entitled, upon occupying the lands, to receive a patent therefor in fee simple, subject to the proviso that "such lands shall revert to the United States if the Indians become extinct or abandon the same."

The title which they might acquire by occupancy was a base, qualified, or determinable fee, with only the *possibility* of *reversion*, and not the *right* of *reversion* in the United States, and therefore all the estate is in the Indians (see decision of United States district court for the western district of Arkansas, May term, 1879, United States *vs.* Ben Reese).

Upon the question of the forfeiture of all rights under the treaty by the failure to remove, I am not so clear as Senator Buckingham appears to have been.

The removal was to take place within five years or such other time as the President might from time to time appoint.

The phrase "or such other time" would seem to mean an extension of time rather than a limitation; that is, that the President might appoint a time for their removal after the expiration of the five years. Permission was given by this office for the re-

moval of a number not less than 250, after the five years had expired. No time was ever named by the President in which the removal must be made or their rights to the land forfeited; nor was any part of the $400,000 appropriated, except the $20,477.50 before mentioned. It would seem, therefore, that the United States has not performed all the conditions precedent required by the treaty.

On the other hand, it does not appear that the Indians in any considerable numbers ever manifested a desire or willingness to remove to the western lands, but on the contrary opposed such removal, and in view of the fate of the few who did remove, this unwillingness does not appear strange.

In view of all the facts in the case, I am inclined to the opinion that the petition of these Indians is entitled to some consideration.

Should they now insist upon their right to remove and occupy the lands under the treaty, I do not think that the government could show such a refusal on the part of the Indians, and such a performance of conditions on its part as would release it from the obligations of the treaty.

It is presumed that all the lands ceded to these Indians by the treaty of 1838, except that patented to the thirty-two Indians hereinbefore referred to, has been disposed of under the general laws providing for the disposition of the public domain, and the proceeds thereof covered into the Treasury of the United States. The government, therefore, is not now in condition to fulfill the stipulations of the treaty regarding removal, if required to do so, and the Indians would seem to be entitled to some compensation in lieu thereof.

The relief prayed for does not appear to be excessive, and is not for the benefit of the Indians individually, but for their advantage and improvement as a race.

I think that a due consideration for them as wards of a powerful nation, and a liberal construction of their rights under treaty stipulations, require that the relief asked for should be granted.

I return the petition and inclose a copy of this report.

Very respectfully, your obedient servant,

H. PRICE,
Commissioner.

Hon. SECRETARY OF THE INTERIOR.

47TH CONGRESS, 2d Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 2002.

ALLOWANCE OF CLAIMS IN THE OFFICES OF THE QUARTERMASTER-GENERAL, COMMISSARY-GENERAL, AND THIRD AUDITOR.

MARCH 3, 1883.—Laid on the table and ordered to be printed, together with the accompanying testimony.

Mr. BRIGGS, from the Committee on Expenditures in the War Department, submitted the following

REPORT:

The Committee on Expenditures in the War Department, to whom was referred the resolution of the House of Representatives of April 7, 1882, relating to alleged "corrupt practices in regard to the investigation and allowance of claims in the Quartermaster-General's, Commissary General's, and Third Auditor's Offices," beg leave to submit the following report:

Under said resolution your committee examined a number of witnesses—whose testimony is herewith submitted—and from this testimony and other personal investigation they are of opinion that the class of claims referred to in the resolution, and indeed all claims against the general government, should be investigated and settled by some tribunal possessing judicial functions; that all testimony in relation to the same should be given under oath, and the witnesses subjected to cross-examination by counsel for the government or the claimant; that the testimony should be given in the presence of such tribunal, or upon depositions taken in the usual manner prescribed by law, counsel for the government or for the claimant having the right to cross-examine the witness making such deposition.

And your committee recommend that all such unadjusted claims be transferred to the Court of Claims, and that court be directed to ascertain the facts in each case, to determine the amount due the claimant, if anything, and to report their findings to Congress for its action thereon.

J. F. BRIGGS.
FREDERICK MILES.
GEO. W. STEELE.
JO. C. S. BLACKBURN.
W. A. J. SPARKS.

FORTY-SEVENTH CONGRESS. FIRST SESSION.

CONGRESS OF THE UNITED STATES.

IN THE HOUSE OF REPRESENTATIVES.
April 7, 1882.

Whereas it has been publicly declared by a member in his place in this House that there are reasonable grounds to believe that certain officials, clerks, and agents

48TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 673.

NEW YORK INDIAN LANDS IN KANSAS.

MARCH 5, 1884.—Referred to the House Calendar and ordered to be printed.

Mr. PERKINS, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany bill H. R. 2047.]

The Committee on Indian Affairs, having had under consideration bill H. R. 2047, submit the following report:

These lands are situated in Bourbon County, Kansas, are occupied by actual settlers, and have been for more than twenty years, and are, in a good state of cultivation with valuable improvements thereon. The settlers are desirous of having the questions of controversy and of dispute settled, and are anxious to obtain a perfect title to their homes, and in that view are willing to accept the provisions of the bill reported by your committee.

A more detailed history of these lands is given in the accompanying letters of the honorable Secretary of the Interior and of the honorable Commissioner of Indian Affairs dated, respectively, April 8, 1878, and March 29, 1878.

From the first the settlers have been denying the claim and title of the Indians to these lands, and for years have been asking favorable legislation from Congress in their behalf.

The bill considered by your committee is a reprint of bill H. R. 406 of the Forty-seventh Congress, and the Committee on Indian Affairs of that Congress, to which the bill was referred, made the following report thereon:

The history of the lands in question is given in a letter of the honorable Commissioner of Indian Affairs, bearing date of March 29, 1878, and is herewith submitted.

Your committee agree with the statement of the honorable Commissioner of Indian Affairs that "it is very desirable that adequate legislation be had insuring the sale of these lands and the final settlement of all questions in connection therewith," and therefore recommend the passage of the bill advised by the honorable Commissioner of Indian Affairs, changed only as to the price per acre that the occupants shall be required to pay.

There is no difference of opinion on any point of the bill, with the sole exception of the price per acre, between your committee and the honorable Commissioner of Indian Affairs; your committee holding that $3 per acre, uniform for all the lands, being preferable under the circumstances to the old appraisement of 1873.

Without deciding the question of whether or not the Indians suffered wrongs at the hands of white settlers twenty-five years ago, your committee in their recommendation of the passage of this bill, seek only to settle amicably this old Indian title, securing to the Indians the largest price possible for their lands, and to the present white occupants an unquestioned title to their homes and improved farms.

In this connection it is well to state that the present occupants, with few possible exceptions, are not the original "squatters" upon the land, but hold by purchase of the rights of possession from the original settlers. In case the matter was referred to the courts it would become necessary to determine whether the Indian title to any of the allotments is good or not under the treaty stipulations, and if decided that the title good, and that the Indians really own the lands in question, under the occupying claimant's law of the State of Kansas, each occupant in possession holding under

a color of title from some previous occupant would be entitled to recover fr successful litigant such payment for his improvements as was found by the court and equitable.

No Indian is in condition to make good this demand of the occupant, and it not unlikely occur that in the end, after expensive and vexatious litigation, he fail to secure any considerable compensation for his property.

Your committee are therefore of the opinion that either to send these par court by a direct order, or to pass such legislation as would inevitably re tedious litigation, is both unwise and unjust to both parties. It has been made apparent that to provide for the sale of the land under the appraisement wou result in a determined opposition by the settlers in the courts.

It has also been made apparent that the price fixed in the bill ($3 per acre acceded to by the settlers and the money promptly paid, under the provisions bill, to the Secretary of the Interior, to be held by him in trust, subject to the the proper parties to whom it may belong.

Your committee further state that in their judgment the price that should b sidered adequate for these lands should not be much greater than that pri lands were worth when abandoned by the Indians nearly twenty years ago; th act of Congress of 1873 provided for the patenting to the Indians then livin the lands the selections which they had made under treaty, and that those wh at that time living on the lands received patents for their selections; that th now sought to be sold are only those lands that have been voluntarily or oth abandoned by the original allottees.

Your committee desire further to state that the Indians, through their att Hon. S. A. Cobb, of Wyandotte County, Kansas, four years since agreed to a price of $2.50 per acre, and that they desired the sale of the lands. The settlers upon the lands also signified their willingness to purchase at that price, and, fore, your committee feel that in fixing the price at $3 per acre they have na reasonable valuation.

They therefore, in a spirit of compromise, offer this bill as in their judgment senting under all the circumstances the best possible solution of the questio recommend its passage.

With the recommendation of the committee of the last Congress committee fully concurs, except that it recommends that the pr bill be amended so as to strike out all after the word "made," in 16 of section 1, and down to and inclusive of the word "annum," in 20 of the same section, and insert in lieu thereof, "in cash at th purchase."

And in the second section strike out all after the word "sold" in 6th line, and down to and inclusive of the word "provided" in the and tenth lines of the said section.

These recommendations are made by your committee thinki better for the Indians, and but little more rigorous for the settler the provisions of the original bill. The certificates of allotment to lands were issued in September, 18 0, to the Indians, and yet these years they have not been able to get possession of them. improvements upon them, cultivate them, or make disposition of and, in the judgment of your committee, if they are ever to realiz thing from them, it must be by act of Congress authorizing the to the settlers occupying them, and somewhat in the spirit of co mise. There were 1,824,000 acres of land in Kansas given to the York Indians by the treaty of 1838. In April, 1858, the then hon Secretary of the Interior held that those of the New York Indian had not removed to the lands had thereby forfeited their title th and that the same should be opened to settlement, and in Dec 1860, executive proclamation was made opening the lands to th tlers of the country. But after the decision of the Secretary of t terior, of April, 1858, and prior to the executive proclamation cember 1860, the thirty-two Indians spoken of in the accompany ports satisfied the Secretary of the Interior that they had co with the provisions of the treaty of 1838, and on the 14th day of tember, 1860, certificates of allotments were issued to them for

The lands so allotted are the lands embraced within the provisions of the present bill. All else was sold by the Government to the settlers at $1.25 per acre, and the settlers now occupying and claiming the allotted lands claim they, or the parties from whom they have purchased them, were occupying and improving them when they were selected by the Indians, and for such reasons they have never been willing to recognize the right or title of the Indians to the land.

It is unquestionably true that the allottees have never occupied the lands since the certificates of allotment were issued to them; have not cultivated or improved them, and have done nothing to contribute to their worth or value, while, during the entire period the settlers have been in possession, denying the validity of the Indian claim and asking for a title to their homes.

Under these circumstances, and particularly in view of the occupying claimant's law of Kansas, mentioned by the committee in its report to the last Congress, your committee has deemed it best for all, and eminently fair to the Indians, to recommend the passage of the present bill, amended in the particulars suggested.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
Washington, March 29, 1878.

SIR: I am in receipt, by reference from the House Committee on Public Lands, of H. R. 1178, providing for the sale of certain New York Indian lands in Kansas, and requesting the views of this office on the same.

I am also in receipt, by your reference for report, of a letter from the Hon. D. C. Haskell, dated January 18, 1878, inclosing a copy of the same bill, and requesting the views of this office thereon.

In connection therewith I have the honor to report that, by the second article of the treaty of January 15, 1838, with the New York Indians (7 Stat., 550), the United States agreed to set aside for the New York Indians, then residing in Wisconsin and New York, a certain tract of land, west of Missouri, containing 320 acres for each of said Indians, to be held in fee-simple, by patent from the President, in conformity with the provisions of the third article of the act of May 28, 1830 (4 Stat., 411), the provision to which declares that "such lands shall revert to the United States if the Indians become extinct or abandon the same." The treaty vested the Indians with the power and authority to divide said lands, in severalty, among the different tribes and bands, and to sell and convey the same among each other, under such regulations as they might adopt. Indians not accepting and agreeing to remove within five years, or such other time as the President may from time to time appoint, to "forfeit their interest" in "the lands so set apart to the United States."

Under these provisions 32 New York Indians removed to and remained in the Territory now embraced in the State of Kansas prior to June 16, 1860, at which time the honorable Secretary of the Interior approved to them selections of 320 acres each, for which, on the 14th of September, 1860, certificates of allotment were issued to each of said reservees, the certificate specifying that the selections were for the exclusive use and benefit of the reservees, and were not subjected to be "alienated in fee, leased, or otherwise disposed of, except to the United States."

By an act approved February 19, 1873 (17 Stat., 466), Congress authorized such actual settlers as were then residing thereon to enter and purchase said lands in tracts of not exceeding 160 acres, at an appraised value of not less than $3.75 per acre, to be ascertained, under the direction of the Secretary of the Interior, by three appraisers appointed to value the same, the funds arising from the sale to be paid into the Treasury of the United States, in trust for such of said New York Indians or their heirs as might, within five years, establish their identity; and in absence of such proof within the time specified, the proceeds of the sale to become a part of the public moneys of the United States: "*Provided*, That any Indian to whom any of said certificates was issued, and who is now occupying the land allotted thereby, shall be entitled to receive a title therefor."

Entries under this act were required to be made within two years from the promulgation of the necessary regulations for the sale of the lands.

This act was amended by the act of June 23, 1874 (18 Stat., 273), so as to allow the payments to be made in two annual installments, the first payments to be made on or

before the 30th day of September, 1875, and the remainder within one year there-with interest at 6 per centum per annum.

The commissioners appointed under the act of 1873 to appraise the lands repo on the 26th of July, 1873, that none of the 32 New York Indians were living on lands at that time or at the date of the act, but that all of said lands were then o pied by actual settlers, whose names were given in the report opposite the descrip of the tract on which they had respectively made settlement. The lands were va by the appraisers at an average of $4.9076 per acre, and their report was approve the Department September 30, 1873.

Instructions were issued by the Secretary, under the same date, directing that lands should be sold under the instructions of the General Land Office by the di land officers, who were directed to notify the settlers entitled to purchase by publi advertisement of a general character in a newspaper published in the vicinity of land that payment would be required within two years.

In pursuance of these instructions, as it appears from a letter of the Honorable C missioner of the General Land Office, dated July 3, 1877, the following sales have made:

First. From N. ½ section 26, 23 S., 25 E., allotted to Joseph Johndroe, there has sold, at $5 per acre, cash, to Benjamin Brown, the NE. ¼ of said section; considera $800.

Second. From N. ½ section 27, 23 S., 25 E., allotted to Margaret Johndroe, there been sold, at $5 per acre, cash, to Nathaniel Oates, the S. ½ NE. ¼; consideration, $

Third. From the S. ½ of said section 27, allotted to Michael Gray, there has sold, at $4.50 per acre, cash, to Nathaniel Oates, the N. ½ of SE. ¼; consideration, $

Fourth. From W. ½ section 4, 24 S., 25 E., allotted to James Scrimpsher, there been sold, at $4.75 per acre, cash, to S. McEwing, the N. ½ of SW. ¼; considera $380.

Fifth. From N. ½ section 27, 23 S., 25 E., allotted to Margaret Johndroe, there been sold, at $5 per acre, cash, to William M. Beckford, the N. ½ NE. ¼, and at per acre, to the same party, the N ½ SW. ¼ of said section; consideration, $760.

Sixth. From the same allotment there has been sold, at $4.50 per acre, and pa full, in two installments, with $10.77 interest, to John Barrett, the S. ½ NW. ¼; c sideration, including interest, $370.77.

Seventh. From the W. fractional ½, sec. 2, 24 S., 25 E., allotted to Joseph Fox, t has been sold, at $5 per acre, and paid in full, in two installments, with $23.80 inte to Joanna Glendenning, the NW. fractional ¼, containing 156.76 acres; considera with interest, $822.60.

Eighth. And from the E. fractional ½ sec. 6, 24 S., 25 E., allotted to Mary Pred there has been sold, at $6 per acre, to Levi T. Call, the W. ½ of SE ¼ of said se amounting to $480, one-half of which was paid at date of purchase, September 29, 1 and the balance, with interest, is still due and unpaid.

There has, therefore, out of an aggregate of 10,215.63 acres, valued at $50,5 been sold 879.76 acres for the sum of $3,858.80; leaving unsold 9,335.87 acres, va at $46,991.25, or an average of $5.02¼ per acre, which aggregate amount would cording to the terms of the act of February 19, 1873, if not claimed by the allottees their heirs, inure to the United States at the end of five years, which have expir

The bill under consideration proposes to reduce the aggregate value of the u lands over one-half, or to $23,339.68, and if the lands are not sold, at the dimin rate of $2.50 per acre, within one year, that patents shall issue in the names o original allottees for the balance unsold.

With these provisions of the bill I am not inclined to concur, for the following sons:

Under the treaty of 1838 the New York Indians were entitled to 1,824,000 acre land in Kansas, and a removal fund of $400,000, which the United States never vided. Notwithstanding the failure of the United States in this regard, portio the Indians removed to Kansas subsequent to the treaty, with a view of making country their permanent home, but on account of their rapid depletion in nu from sickness, a majority afterwards returned to New York.

By decision of April 19, 1858, the honorable Secretary of the Interior held that t of the New York Indians who had not removed had thereby forfeited their title t reserve, and that the same should be opened to settlement; but in the executi said decision, and prior to the proclamation of December, 1860, opening the lan settlement, the allotments under consideration were made to the 32 Indians who then in Kansas, and certificates were issued to them therefor.

It follows, therefore, that an equitable interest in fee in the lands vested in t Indians, by virtue of the grant contained in the treaty, at the date of their re and long prior to the settlement of Kansas, although the evidence of title did not until 1860.

They accordingly assumed the condition of legal ownership, by *purchase*, over lands subsequently allotted to them, at an early day, and are entitled to the bene any appreciation of value arising from the settlement and improvement of the cou

This doctrine is, I am aware, in opposition to a somewhat prevalent opinion as to the right of the Indians. It has been urged in similar cases that as the Indians have not improved their lands they are not entitled to the advance in value incident to the settlement of the country. The purchase of wild lands, and holding of the same to await the improvement of the country, has been one of the most popular and safe, as well as the most remunerative methods of investment known, and I can see no grounds upon which Indians taking an equitable title in fee should be deprived of the benefits never denied to white purchasers of public lands, bought and held for speculative purposes only.

Informal claims have been filed in this office by the original allottees, or their heirs, covering nearly all the proceeds arising from the sale of these lands when sold.

There is no evidence on file in this office, aside from the letters of Mr. Haskell, showing that it is the desire of these Indians that the lands should be sold at a reduced price.

The lands are in Bourbon County, one of the richest and most fertile counties in the State. They are within a few miles of Fort Scott, and near the line of the Missouri, Kansas and Texas Railroad—the Missouri River, Fort Scott and Gulf Railroad running nearly through the center of the body of the lands, which lie in close proximity to the corner of townships 23 and 24 in ranges 24 and 25 east. The records of the General Land Office show that there is scarcely a vacant forty-acre tract of land in or near the townships named. With these facts in view, it is safe to assume that the several tracts were, in 1873, worth the full amount at which they were appraised, and that, in view of the rapid development of the country, and the present price of uncultivated lands in that vicinity, there has, at least, been no depreciation in their value.

The settlers have been in possession of these lands for years, to the exclusion of the Indians, and have had every advantage and opportunity to pay for the lands from the products of the same.

The title of the Indians is, under treaty stipulations, similar to those with the Shawnees, Miami, and other Indians in Kansas, whose lands have been held by the Supreme Court of the United States (5 Wall., 737) to be excluded from the jurisdiction of the State, and *not subject to taxation*, and it is fairly presumable that the settlers have availed themselves of the benefit arising under this decision.

For these and other reasons which might be urged, I cannot recommend the passage of the bill in its present form. It is, however, very desirable that adequate legislation be had insuring the sale of these lands and the final settlement of all questions in connection therewith.

I have, therefore, to recommend that the bill be amended as follows: Strike out all after the word "office," in the twelfth line, and insert, in lieu thereof, the following:

At any time within one year from the passage of this act said lands so occupied by them in tracts not exceeding one hundred and sixty acres, according to the Government surveys, at not less than the appraised value of the said tracts, as heretofore ascertained by the Secretary of the Interior, in accordance with the provisions of the act of February nineteenth, one thousand eight hundred and seventy-three, entitled 'An act to provide for the sale of certain New York Indian lands in Kansas,' payment may be made in three annual installments, one-third at date of entry, one-third at the end of one year from date of entry, and the balance in two years from date of entry, with interest on said amounts, respectively, from date of entry, at six per centum per annum; and the moneys arising from such sales shall be paid into the Treasury of the United States in trust for, and to be paid to said Indians, respectively, to whom said certificates were issued, or to their heirs, upon satisfactory proof of their identity to the Secretary of the Interior, at any time within three years from the passage of this act; and in case such proof is not made within the time specified, then the proceeds of such sale, or so much thereof as shall not have been paid under the provisions of this act, shall become a part of the public moneys of the United States.

Sec. 2. That any lands not entered by such settlers at the expiration of one year from the passage of this act shall be offered at public sale, in the usual manner, at not less than the appraised value, notice of said sale to be given by public advertisement for not less than thirty days; and any tract or tracts not then sold, together with such tracts as have heretofore been or may hereafter be entered, and wherein default has been made in the payment of any portion of the purchase-money, or the interest thereon, as herein or heretofore provided, shall be thereafter subject to private entry at the appraised value of said tracts."

Inclosed herewith a schedule showing the names of the 32 allottees named in this bill, the description of the lands allotted to each, with the names of the settlers occupying the lands placed opposite the tract claimed by them.

The bill referred by the House committee, together with the letter of Mr. Haskell, inclosure, is herewith respectfully returned.

I have the honor to be, very respectfully, your obedient servant,

E. A. HAYT,
Commissioner.

The Hon. SECRETARY OF THE INTERIOR.

Description and valuation of New York Indian lands as appraised in the year 1873.

Description.	Section.	Township.	Range.	Number of acres.	Value per acre.	Total value.	Name of reservee.	Name of settler.
				Acres.				
NW. ¼	36	23	24	160.00	$6 50	$1,040 00	Mary Ann Gray	Lyman Schaffer.
SW. ¼	36	23	24	160.00	6 00	960 00	do	Edward Schaffer.
SE. ¼	27	23	25	160.00	4 50	720 00	Michael Gray	Mary D. Nickerson, S. ½; Nathaniel Oates, N. ½.
SW. ¼	27	23	25	160.00	4 50	720 00	do	William Morehead, W. ½ and SE. ¼; R. Simmons, NE. ¼.
NE. ¼	27	23	25	160.00	5 00	800 00	Margaret Johnson, sr	William M. Beckford, N. ½; Nathaniel Oates, S. ½.
NW. ¼	27	23	25	160.00	4 50	720 00	do	William M. Beckford, N. ½; John Barrett, S. ½.
NE. ¼	26	23	25	160.00	5 00	800 00	Joseph Johnson	Benjamin Bowman.
NW. ¼	26	23	25	160.00	4 00	640 00	do	James Barrett, N. ½; Mary Hodges, S. ½.
SE. ¼	26	23	25	160.00	4 00	640 00	Agnes Johndroe	George McNeal.
SW. ¼	26	23	25	160.00	3 75	600 00	do	Nathaniel Lowrie.
NW. ¼	35	23	25	160.00	3 75	600 00	Bridget Johndroe	W. A. Dillon, N. ½; Henry Brown, S. ½.
SW. ¼	35	23	25	160.00	3 75	600 00	do	John Clendening.
NE. ¼	35	23	25	160.60	3 75	600 00	John Johndroe	James Clendening.
SE. ¼	35	23	25	160.00	3 75	600 00	do	Paul Parks, N. ½ and SW. ¼; John Marley, SE. ¼.
NE. ¼	34	23	25	160.00	3 75	600 00	Mary Ann Johndroe	James E. Simpson.
SE. ¼	34	23	25	160.00	3 75	600 00	do	Benjamin H. McAdams.
NW. ¼	34	23	25	160.00	3 75	600 00	Cecelia Johndroe	Gilbert Carlisle.
SW. ¼	34	23	25	160.60	3 75	600 00	do	Thomas Foster.
NE. ¼	33	23	25	160.00	3 75	600 00	Margaret Johndroe, jr	—— McCanna.
SE. ¼	33	23	25	160.00	4 00	640 00	do	George H. Clark, E. ½; J. A. Clark, W. ½.
NW. ¼	33	23	25	160.00	3 75	600 00	Susan Johndroe	Isaiah Lonsbury.
SW. ¼	33	23	25	160.00	3 75	920 00	do	Francis M. Allen.
NE. ¼	32	23	25	160.00	3 75	600 00	Cecelia Erroe	Michael Walks.
SE. ¼	32	23	25	160.00	5 00	800 00	do	Robert Montgomery.
NW. ¼	32	23	25	160.00	3 75	600 00	James Erroe	Simeon Burkholder, E. ½; Patrick Quigley, NW. ¼; Harnett Hayyard, SW. ¼.
SW. ¼	32	23	25	160.00	4 25	680 00	do	George B. Scott.
NE. ¼	31	23	25	160.00	4 25	680 00	Lewis Erroe	Abram Burkholder.
SE. ¼	31	23	25	160.00	5 00	800 00	do	Charles Betch, S. ½; J. M. Scott, N. ½.
NW. fractional ¼	31	23	25	159.46	3 75	597 97½	Henry Logatrine	Samuel Bellew.
SW. fractional ¼	31	23	25	159.82	4 75	759 14½	do	E. L. Faylor.
NE. ¼	36	23	24	160.00	10 00	1,600 00	Mary Logatrine	Oramur Chapman.
SE. ¼	36	23	24	160.00	7 00	1,120 00	do	Jacob L. Coukhilt.
NE. fractional ¼	1	24	24	159.00	7 00	1,113 00	Elizabeth Bratman	John Murphy.
SE. ¼	1	24	24	160.00	6 00	960 00	do	Benjamin Sheets.
[illegible]	1	24	24	[illegible]	7 00	[illegible]	Lewis Petello	James Guilloyle.
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Presented to the Historical
Society by Mary J. Pierce,
Versailles N.Y. Oct 10. 1884
(Widow of the late M. B. Pierce,
Chief of the Seneca Nation)

BUFFALO HISTORICAL SOCIETY.

C

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Copies of
Treaties, Agreements,
and
Correspondence relating
thereto,

By W. P. Pierce
Chief of the Seneca Nation

(2)

By the Authority of the President of the United States.

To all people to whom these presents shall come.

Greeting

Whereas it has been represented by some of the chiefmen of the Seneca and Onondaga nations of Indians that they are entitled to certain reserved Tracts of land lying on the Cattaraugus Creek, and on, or near the Allegany, and which has been surveyed laid off, and the lines regularly run, and distinctly understood, But that they are not in possession of Deeds, securing to them the peaceable and undisturbed occupancy thereof.

As well therefore to remove all apprehensions from the minds of the chiefmen and others of the Seneca and Onondaga nations, as to secure to them the possession of said lands, it is hereby Announced and Declared by the authority aforesaid, and on behalf of the Government of the said United States, that all lands, claimed by and secured to said Seneca and Onondaga nations of Indians by Treaty, Convention, or

Deed of conveyance or reservations, lying and being within the limits of the said United States, shall be and remain the property of the said Seneca and Onondaga Nations of Indians Forever; unless they shall voluntarily relinquish or dispose of the same.

And all persons, citizens of the United States, are hereby strictly forbidden to disturb said Indian Nations in their quiet possession of said lands.

Given under my hand, and the Seal of the War Office of the United States, this fourteenth day of March in the year, One thousand, Eight hundred and two

L.S.

H Dearborn
Secretary of War

Auburn Dec 29th 1886.

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Gen S Conover Esq
Dear Sir

Yours of 27th inst is at hand - and it will be a pleasure to answer its - for I desire to do something to repay you for favors Rec'd —

I send herewith a copy of the Treaty of 1795 — which will give you the "date - where held - names of signers" &c

I think Appendix No 2 in "Seneca County Centennial" (pg 314) written by you - the Treaty of 1789, and the Enclosed Treaty of 1795 will give you all desired information in regard to Skoi-yase.

The Residence Reservation was Two or four square miles - and was located in the South West Corner of the Town of Springport and the North West Corner of the Town of Ledyard.

The Mine Reservation was a mile square two or three miles North East of the Village of Union Springs - on the East line of the Town of Springport.

The Treaty of 1795 will inform you where the

Cayugas, but those Reservations (the Residence & Mine) They ceded to the State these two Reservations May 30th 1807. I have not seen a copy of this Treaty – but D Wilkes gives me that "date". I find in Session Laws of 1807 – a Law – (Chapter 72 –) passed March 27 1807. "in relation to the purchase of the Cayuga Reservations" – The preamble is as follows – "Whereas his Excellency the Governor has made a contract with the Agents of the Cayuga Nation of Indians for the purchase of their reservation of land on the East side of the Cayuga Lake, containing Three Thousand Two Hundred Acres for the sum of Forty Eight Hundred Dollars, to be paid to the said Nation on or about the first of June next ensuing, at Canandaigua, on his being previously satisfied that the Deed for the Conveying the said land to the people of this State is duly executed by the Sachems and Chief Warriors of the said nation, according to their usual Custom, and ready to be delivered on the payment of the sum above mentioned" – therefore

Now it seems that if there was a formal Treaty it was at Canandaigua – and the Consideration for the lands sold was $4800.

you will find in the Treaty of 1789 that Fish Carrier rec^d a Mile Square near Conoga – By the Treaty of 1795 the State Rec^d the possession of this land, and agreed to pay the Net income to him – In 1796 this was commuted to a $250 annuity – (which was 6 per C on about $4800). In 1841 a Law was passed directing the Commissioners to pay the principal of the Annuity due the Cayuga Chief Fish Carrier, – and it was done.

If this Statement does not cover all desired facts inform me, and I will do my best to post you in all matters pertaining to the Reservations.

Kindly Yours

S Warren Adams

J. M. Adams
Dec 29/86 on
Treaties with Barrigas

No. 106. 21 Oct 1784 (132)

Grant Govr Haldimand to The Six Nations

Registered 20th March '95. C. W. Jarvis

Frederick Haldimand, Captain General and Governor in Chief of the Province of Quebec and Territories depending thereon, &c. &c. &c. General and Commander in Chief of His Majesty's Forces in said Province and its Frontiers thereof &c. &c. &c.

Whereas His Majesty, having been pleased to direct that in consideration of the early attachment to his cause manifested by the Mohawk Indians, and of the loss of their settlement which they thereby sustained — that a convenient tract of land under his protection should be chosen as a safe and comfortable retreat for them and others of the Six Nations, who have either lost their settlements within the Territory of the American States, or wish to retire from them to the British — I have at the earnest desire of many of these His Majesty's faithful Allies purchased a tract of land from the Indians situated

situated between the Lakes Ontario Erie and Huron and I do hereby in His Majesty's name authorize and permit the said Mohawk Nation and such others of the Six Nation Indians as wish to settle in that quarter to take possession of and settle upon the Banks of the River commonly called Ouse or Grand River, running into Lake Erie, allotting to them for that purpose six miles deep from each side of the river beginning at Lake Erie and extending in that proportion to the head of the said river, which them and their posterity are to enjoy for ever.

Given under my hand and seal at arms at the Castle of St Lewis at Quebec this twenty fifth day of October one thousand seven hundred and eighty four and in the twenty fifth year of the reign of Our Sovereign Lord George the Third by the Grace of God of Great Britain, France and Ireland King Defender of the Faith and so forth

Fredk Haldimand.

By His Excellency's Command

B. Mathews.

(134)

(6)

Grant

Governor Haldimand

to

The Six Nations

Dated 25th Oct 1784

Crown Lands Department
Toronto 23 June 1862

I hereby certify the within to be a true and faithful copy of the grant of the Royal Grant as entered in Lib. H. folio 8 (manuscript)

Wm Hunt
Dep. Com. Lands

Copy of Indian Grants
Ottawa 7 Dec. 1889.

I hereby certify that the within is a true and faithful copy of the original Grant on file in the Department of Indian Affairs

Thos. Mourray
Chief Clerk
Department of Indian Affairs
for Deputy Superintendent General of Indian Affairs

[illegible] CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1858.

INDIAN BENEFICIARIES UNDER TREATY CONCLUDED AT BUFFALO CREEK.

MAY 13, 1892.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. HOOKER, of New York, from the Committee on Indian Affairs, submitted the following

REPORT:

[To accompany H. R. 5679.]

The Committee on Indian Affairs, to whom was referred the bill (H. R. 5679) to provide for a settlement with the Indians who were parties to and beneficiaries under the treaty concluded at Buffalo Creek, in the State of New York, January 15, 1838, for the unexecuted stipulations of that treaty, have considered the same and in respect thereto report as follows:

By treaties duly entered into in the years 1784 (7 Stats., 15), 1789 (7 Stats., 33), and 1794 (7 Stats., 44), the United States secured the Six Nations of New York Indians in the peaceful possession of their lands described by definite boundaries and guaranteed peace and perpetual friendship between the United States and the said Indians, among other things engaging that the United States would never claim the said lands or disturb any of the said Six Nations or their Indian friends residing thereon and enjoying the same, and engaging that the same should remain theirs until they chose to sell them to the United States.

In 1810 the said New York Indians petitioned the President of the United States for leave to purchase reservations of their western brethren, with the privilege of removing to and occupying the same, and thereupon with the approbation of the President lands situated at Green Bay, Wis., were purchased by the said New York Indians from the Menomonee and Winnebago tribes. By subsequent treaties of [illegible], 1822, 1831, and 1832 (Senate Doc. 189, second session, Twenty-[illegible]th Congress, pp. 7 to 22; 7 Stats., 345, 347, 348, 409, 305, and [illegible] Debates in Congressional Globe, Thirty-fifth Congress, second [illegible], 1858 and 1859, pp. 1634 to 1636), the United States recognized the fact that prior to February, 1831, the said New York Indians, with the approbation of the President, had purchased for a valuable consideration from the Menomonee and Winnebago Indians certain lands at Green Bay, Wis., in addition to three townships set apart for the Stockbridge, Muncie, and Brothertown tribes, which said lands, at first aggregating by their description a very much larger quantity, were finally reduced by the United States so as to include only 500,000 acres, in addition to the three townships aforesaid.

In the negotiations resulting in this outcome, the United States secured from the Menomonee Indians, without any other consideration than the assent of the United States to the agreement between the [illegible] and the New York Indians, 2,500,000 acres of land ([illegible], 342).

The title of the New York Indians to these 500,000 acres of land has since been several times recognized by the United States, as in the treaty with the Menomonees of September 3, 1836 (7 Stats., 5[illegible]); the treaty with the Stockbridges and Muncies of September 3, [illegible] (7 Stats., 380); in the treaty with the New York Indians concluded at Buffalo Creek January 15, 1838 (7 Stats. 550); and in the treaty with the Tonawanda band of Senecas of November 5, 1857 (11 Stats., [illegible]).

The treaty whose stipulations are the subject of the bill under consideration was concluded on the 15th of January, 1838, at Buffalo Creek. This treaty was the outcome of an application of the New York Indians to the President to take their Green Bay lands and provide them new lands in the Indian Territory. The provisions of the treaty are, in brief, as follows: That, in consideration of the premises and the covenants contained in the treaty itself to be performed by the United States, the New York Indians cede and relinquish to the United States all their right, title, and interest in and to their Green Bay lands (excepting a small reservation), and in consideration of this cession and relinquishment the United States, in and by the treaty, agree and guarantee as follows:

First. To set apart as a permanent home for the New York Indians a certain tract of country west of the Mississippi River, described by metes and bounds, and to include 1,824,000 acres of land, to be divided equally among them, according to the number of individuals in each tribe, as set forth in a schedule annexed to the treaty and designated as Schedule A, on condition that such of the Indians as should accept and agree to remove to the country set apart for them within five years, or such other time as the President might from time to time appoint, should forfeit to the United States all interest in the lands set apart.

Second. The United States agreed to protect and defend the New York Indians in the peaceable possession and enjoyment of their new homes, and to secure their right to establish their own government, subject to the legislation of Congress respecting trade and intercourse with the Indians.

Third. The United States agreed that the lands secured to the Indians by the treaty should never be included in any State or Territory of the Union.

Fourth. The United States agreed to pay to the several tribes and nations of Indians hereinafter mentioned, on their removal, the following sums, respectively, namely: To the St. Regis tribe, [illegible] to the Seneca Nation the income annually of $100,000 (being [illegible] the money due said nation for lands sold by them in New York, which sum they authorized to be paid to the United States); [illegible] Cayugas, $2,500 cash and the annual income of $2,500; to the [illegible] dagas, $2,000 cash and the annual income of $2,500; to the [illegible] $6,000 cash; and to the Tuscaroras, $3,000.

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within five years, or such other time as the President might from time to time appoint, should forfeit to the United States all interest in the lands so set apart. By supplemental article the St. Regis Indians assented to the treaty, with this stipulation, viz:

And it is further agreed that any of the St. Regis Indians who wish to do so shall have liberty to remove to the said country at any time hereafter within the time specified in this treaty,-but the Government shall not compel them to remove.

At the time of the making of the treaty of 1838 the New York Indians and the several tribes and nations thereof owned and possessed in the State of New York valuable lands, comprising many thousands of acres, the preëmptive right of none of which was in the United States; and for many years prior to the making of the treaty the said several nations or tribes of Indians had improved and cultivated their lands on which they resided, and from the products of which they chiefly sustained themselves.

The President of the United States never prescribed any time for the removal of the New York Indians, or any of them, to the lands, or any of them, set apart by the said treaty; and no provision of any kind was ever made for the actual removal of more than about 260 individuals of the claimant tribes as contemplated by the treaty of Buffalo Creek, and of this number only 32 ever received patents or certificates of allotment of any of the lands mentioned in the first article of the treaty, and the amount allotted to those 32 was at the rate of 320 acres each, or 10,240 acres in all.

In 1845 Abram Hogeboom represented to the Government of the United States that a number of the New York Indians, parties to the treaty of 1838, desired to remove to the Kansas lands, and upon such representation and in conformity with such desire Hogeboom was appointed special agent of the Government to remove the said Indians to Kansas.

The sum of $9,464.08 of the amount appropriated by Congress was expended in the removal of a party of New York Indians, under his direction, in 1846.

From Hogeboom's muster roll in the Indian Office it appears that 271 were mustered for emigration. The roll shows that of this number 73 did not leave New York with the party. The number, thus reduced to 198, arrived in Kansas June 15, 1846: 17 other Indians arrived subsequently; 62 died, and 17 returned to New York.

It does not appear that any of the 32 Indians to whom allotments were made settled permanently in Kansas.

On the other hand, the United States, after the conclusion of the treaty, surveyed and made part of the public domain the lands at Green Bay ceded by the Indians, and sold, or otherwise disposed of, and conveyed the same and received the consideration therefor. The lands east of the Mississippi, secured to the Indians by the treaty of 1838, were also afterwards surveyed and made part of the public domain, and were sold or otherwise disposed of by the United States, which received the entire consideration therefor; and the said lands thereafter were and now are included within the territorial limits of the State of Kansas. The price realized by the United States for such of the lands as were sold was at the rate of $1.34 per acre, while the cost of surveying, etc., in same was at the rate of about 12 cents per acre, making the net price realized by the United States about $1.22 per acre.

By treaty with the Tonawanda band of the Senecas, numbering 650 individuals, the United States, November 5, 1857, in consideration of the release by the said band of its claims upon the United States to

the lands west of the State of Missouri, all right and claim to be removed thither and for support and assistance after removal, and all other claims against the United States under the treaty of 1838 (reserving their rights to moneys paid or payable by Ogden & Fellows), agreed to pay and invest, and did pay and invest for said band the sum of $256,000. This amounted in substance to compensating the beneficiaries of the treaty of 1838 at the rate of $1 per acre for their claims to lands in Kansas under said treaty, and also their proportionate share of the $400,000 provided to be appropriated in that treaty.

After March 21, 1859, an order of the Secretary of the Interior was made which directed that the tract of land in Kansas Territory, known as the New York Indian reserve, should be surveyed, with a view of allotting a half section each to such of the New York Indians as had removed there under treaty provision, after which the residue was to become public domain. After this, and before the proclamation of the President of said lands as part of the public domain (December 3 and 17, 1860), the New York Indians employed counsel to protect and prosecute their claims in the premises, asserting in the powers of attorney that the United States had seized upon the said lands contrary to the obligations of said treaty, and would not permit the said Indians to occupy the same or make any disposition thereof, and the said Indians have steadily since asserted their said claims.

Of the sum of $400,000, agreed by the treaty of Buffalo Creek to be appropriated by the United States for the purposes mentioned above only the sum of $20,477.50 was so appropriated (except as hereinafter stated). Of this sum only $9,464.08 was actually expended, and this sum was expended for the removal, more than five years after the ratification of the treaty, of some of the 260 individuals mentioned above but in addition to said sum of $9,464.08 there was paid for the Tonawanda band of Senecas $256,000, as mentioned above.

The above facts have all been ascertained by the committee in its investigations, and after a careful examination of the record evidence bearing upon the claims of the Indians.

In addition, a bill of substantially the same character as the one under consideration was introduced into both Houses in the last seventh Congress, and was favorably reported to the House by the House Committee on Indian Affairs (House Report No. 2001, last seventh Congress, second session), and in the next session was referred by the Senate Committee on Indian Affairs to the Court of Claims under the "Bowman act," so-called. That court, after hearing counsel for the Indians and the United States, and after full consideration of the case, as appears by its findings, duly reported to the Senate findings (Senate Mis. Doc. No. 46, Fifty-second Congress, first session) which in all respects bear out the conclusions of the committee as set forth. The amount due the Indians under the treaty, as ascertained by the committee and the Court of Claims, is $1,971,295.92, after making all allowances for credits in behalf of the United States.

In view of these facts the committee recommends the passage of the bill with the usual allowance of interest in cases of Indian claims and judgments of the Court of Claims, namely, 5 per cent from the day of November, 1857.

As respects the legal rights of the Indians under the treaty under consideration, the committee deems it necessary to advert to the feature of the case, namely, the question of the effect of the

the Indians did not remove to the Kansas lands within five years after the ratification of the treaty.

This question has had the committee's full and careful consideration, and the committee is clearly of the opinion that it presents no difficulty whatever in the way of the rights of the Indians. The language of the treaty, as above appears, is that the Kansas lands were set apart for the Indians on condition that such of them as should not *accept* and *agree* to remove within five years, *or* such other time as the President might from time to time appoint, should forfeit to the United States all interest in the lands. It is seen at a glance that the condition was not removal, but *agreement* to remove, to be evidenced by *acceptance* by the Indians of the terms of the treaty. They did *accept*, and thereby *agreed* to remove (except the St. Regis tribe, as to whom, as above appears, the treaty was modified in this respect), and thus literally and fully they complied with the imposed condition.

All question of a forfeiture thus disappeared. It remained only for the President to appoint a time or times for the removal of the Indians. This the President never did, and as, in violation of the stipulations of the treaty, by including the lands within the territorial limits of the State of Kansas, throwing them into the public domain and selling them and receiving the money therefor, the United States has made it impossible for the Indians to be removed; a removal is now wholly out of the question, and this, too, without any fault of the Indians.

In these views the committee has the support of no less an authority than the Supreme Court of the United States.

The treaty of Buffalo Creek (with its supplement of 1842, which, however, does not affect the claim under consideration) and the mutual duties of the United States and the Indians thereunder have been twice considered by the Supreme Court of the United States, and the court has spoken on the subject with no uncertain sound:

> Neither treaty made any provision as to the mode or manner in which the removal of the Indians * * * was to take place. * * *
>
> The removal of tribes and nations of Indians from their ancient possessions to their new homes in the West, under the treaties made with them by the United States, have been, according to the usage and practice of the Government, by its authority and under its care and superintendence. * * *
>
> The negotiations with them as a *quasi* nation, possessing some of the attributes of an independent people, and to be dealt with accordingly, would seem to lead to the conclusion, *unless otherwise expressly stipulated*, that *the treaty was to be carried into execution by the authority or power of the Government*, which was a party to it; *and more especially when made with a tribe of Indians who are in a state of pupilage and hold the relation to the Government as a ward to its guardian.* * * *
>
> The treaty of 1838 contemplated a removal to the tract west of the State of Missouri and *putting the Indians in possession of it.* A large fund was appropriated and in the hands of the Government, to be disbursed *in aid of such removal*, and of their support and encouragement after their arrival. It did not, therefore, separate those tribes from the care and protection of the Government on its ratification, but contemplated further duties towards them, and for such means were supplied. * * *
>
> We hold that the performance [of the conditions of the treaty] was not a duty that belonged to the grantees, but to the Government, under the treaty. (Fellows *v.* Blacksmith, 19 How., 366.)

On the second occasion when the treaty was under consideration by the court its language was:

> The court have decided in the case of Fellows *v.* Blacksmith (19 How., 366) that the treaty has made no provision as to the mode or manner in which the removal of the Indians * * * was to take place; *that it can be carried into execution only by the authority or power of the Government*, which was a party to it. *The Indians are to be removed to their new homes by their guardians, the United States.* (New York *v.* Dibble, 21 How., p. 371.)

And the views of the committee are further supported by the treaty making and legislative branches of the Government.

Thus, following the decision of the Supreme Court in the case of Fellows *v.* Blacksmith, which was rendered March 5, 1857, a treaty was made with the Tonawanda band of the Senecas, as above set forth, on November 5, 1857, by the terms of which those Indians (part of the New York Indians), in consideration of the release by them of their claims to the Kansas lands and to the right to be removed thither and to support and assistance after removal, and all other claims against the United States under the treaty of Buffalo Creek, were paid by the United States (by investment for their benefit) the sum of $250,000, which sum, as above stated, amounted in substance to compensating those Indians at the rate of $1 per acre for their share of the lands and also their proportionate share of the $400,000 provided by that treaty to be appropriated. It is to be noted that this action was taken by the United States more than *nineteen* years after the date of the treaty and more than *fifteen* years after its proclamation as amended, a fact showing beyond all doubt that after the Supreme Court had spoken on the subject the United States, speaking by its highest branch, the treaty making power, unequivocally recognized the double fact that it was the duty of the Government to remove the Indians and that the lapse of more than five years played no part whatever in the matter.

Another not less striking feature of the matter is that the Tonawanda band was not represented in the execution of the treaty, and, accordingly, should least of all be entitled to compensation in the premises. This fact was urged, on the argument of Fellows *vs.* Blacksmith, as invalidating the treaty of Buffalo Creek, but the court made short work of the point, saying (19 How., p. 372):

> An objection was taken, on the argument, to the validity of the treaty, on the ground that the Tonawanda band of the Seneca Indians were not represented by the chiefs and headmen of the band in the negotiations and execution of it. But the answer to this is that the treaty, after executed and ratified by the proper authorities of the Government, becomes the supreme law of the land, and the courts can no more go behind it for the purpose of annulling its effect and operation than they can go behind an act of Congress.

In view of this fact the Tonawanda treaty becomes to the last degree significant. Of course, if those Indians were not parties to the treaty of Buffalo Creek, they had no claims to yield in consideration of a money payment; and yet, not having been actual parties, they were the first and only portion of the Indians to be compensated for the Government's broken faith.

The committee having thus the support of the Supreme Court and the treaty-making power, has the support of the legislative branch of the Government also. In the sundry civil bill of March 3, 1859, the rights of these Indians are distinctly recognized. That act (11 Stat., 430, 431) authorized the issue by the Secretary of the Interior of patents for land to certain Indians in Kansas, but expressly declared "that nothing herein contained shall be construed to apply to the New York Indians or to affect their rights under the treaty made by them at Buffalo Creek." Following, as it did, the decision of the Supreme Court and the treaty with the Tonawanda band, this act can be viewed only as a distinct and intentional recognition of the rights of the Indians in the premises.

As respects the question of interest, the committee is equally clear in its recommendation.

The rule of the law on this subject is well understood.

Interest should be allowed in all cases of contract where it is the duty of the debtor to pay money without a previous demand. (West Republic Co. *v.* Jones, 108 Pa. St., 55.) Whenever a debtor knows what he is to pay and when he is to pay it he is chargeable with interest if he neglects or refuses to pay it. (Curtis *v.* Inerarity, 6 How., 146; Young *v.* Godbe, 15 Wall., 562; Dodge *v.* Perkins, 9 Pick., 369.)

Where one receives an advantage or benefit from the use of money of another he is chargeable with interest. (Lewis *v.* Bradford, 8 Ala., 632; Miller *v.* Bank of N. O., 5 Wheat., 503; Sims *v.* Willing, 8 S. and R., 103; Killian *v.* Eigenmann, 57 Ind., 480.) If an amount is capable of being ascertained the account is so far liquidated as to bear interest. (Graham *v.* Chrystal, 1 Abb. Pr. N. S., 121.)

Tried by this rule of the law, this case properly calls for the allowance of interest from November 5, 1857, the date of the Tonawanda treaty; because by that treaty the United States admitted both knowledge of the amount payable by it and its obligation to pay; because the time of payment to the Tonawandas was, by the treaty, the confessed time of payment of all of the Indians; because the amount payable to the Indians was at that time so capable of ascertainment, and in fact so ascertained, as to be, in contemplation of law, liquidated, and because from that time, at least, the United States had the benefit of the use of money properly payable to the Indians.

In addition, there appear to the committee strong equitable reasons for the allowance of interest in this case, namely:

First, the bill provides for the payment by the United States to the Indians at the rate of $1 an acre only for the lands in question, whereas the price actually realized by the United States from the sale of the lands was $1.22 per acre net.

Second. The United States at an early period disposed of the 500,000 acres of land in Wisconsin belonging to the Indians and the 1,824,000 acres in Kansas, and the proceeds in each case were received into the Treasury of the United States, and the United States has ever since had the use of the moneys derived from the lands.

Third. Upon the execution of the treaty with the Tonawandas on November 5, 1857, the United States paid and invested for those Indians the sum of $256,000, so that they have since that date had the benefit of that sum of money, representing as aforesaid their interest under the treaty.

Fourth. On March 21, 1859, the Secretary of the Interior directed the Commissioner of the Land Office to cause the Kansas lands to be surveyed with a view of placing them on the market for sale as part of the public domain, and they were so placed on sale in accordance with the proclamations of the President of December 3 and 17, 1860, notwithstanding that the Indians in the fall of 1859, and in advance of the proclamations of the President, employed counsel, protesting against the action of the Government in the premises, to secure indemnity, and from thence hitherto they have continuously asserted their rights, and have been engaged in so doing at the cost of great labor and expense to themselves, and the delay in procuring a settlement has not only been no fault of the Indians, but also has been in the face of their repeated and earnest efforts.

Fifth. As above stated, if indemnity was due to any of the Indians at the time of the Tonawanda treaty, as was confessed by the United States by the fact of entering into that treaty, it was due to all of the Indians, and all of them should be put upon the same footing in point of justice.

Sixth. The United States has had the use of the $423,000 stipulated by the treaty of Buffalo Creek to be paid to the New York Indians ever since the conclusion of that treaty, less the amount paid to the Tonawanda band, a fact recognized in terms by the Supreme Court of the United States in its decision in the case of Fellows *vs.* Blacksmith, in which the court treats the treaty as in effect effecting an appropriation.

And in this connection the committee desires, in conclusion, to call attention to the well-considered report of Senator Jackson, from the Senate Committee on Claims, submitted at the first session of the Forty-eighth Congress (Senate Report 326), in which is noted a long list of acts of Congress allowing interest to every class of claimants, especially to the Indian tribes and nations.

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52D CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 1858.

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In 1810 the said New York Indians petitioned the President of the United States for leave to purchase reservations of their western brethren, with the privilege of removing to and occupying the same, and thereupon with the approbation of the President lands situated at Green Bay, Wis., were purchased by the said New York Indians from the Menomonee and Winnebago tribes. By subsequent treaties of 1821, 1822, 1831, and 1832 (Senate Doc. 189, second session, Twenty-seventh Congress, pp. 7 to 22; 7 Stats., 345, 347, 348, 409, 305, and 342; Debates in Congressional Globe, Thirty-fifth Congress, second session, 1858 and 1859, pp. 1634 to 1636), the United States recognized the fact that prior to February, 1831, the said New York Indians, with the approbation of the President, had purchased for a valuable consideration from the Menomonee and Winnebago Indians certain lands at Green Bay, Wis., in addition to three townships set apart for the Stockbridge, Muncie, and Brothertown tribes, which said lands, at first aggregating by their description a very much larger quantity, were finally reduced by the United States so as to include only 500,000 acres, in addition to the three townships aforesaid.

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It does not appear that any of the 32 Indians to whom allotments were made settled permanently in Kansas.

On the other hand, the United States, after the conclusion of the treaty, surveyed and made part of the public domain the lands at Green Bay ceded by the Indians, and sold, or otherwise disposed of, and conveyed the same and received the consideration therefor. The lands west of the Mississippi, secured to the Indians by the treaty of 1838, were also afterwards surveyed and made part of the public domain, and were sold or otherwise disposed of by the United States, which received the entire consideration therefor; and the said lands thereafter were and now are included within the territorial limits of the State of Kansas. The price realized by the United States for such of the lands as were sold was at the rate of $1.34 per acre, while the cost of surveying, etc., the same was at the rate of about 12 cents per acre, making the net price realized by the United States about $1.22 per acre.

By treaty with the Tonawanda band of the Senecas, numbering 650 individuals, the United States, November 5, 1857, in consideration of the release by the said band of its claims upon the United States to

the lands west of the State of Missouri, all right and claim to be removed thither and for support and assistance after removal, and all other claims against the United States under the treaty of 1838 (reserving their rights to moneys paid or payable by Ogden & Fellows), agreed to pay and invest, and did pay and invest for said band the sum of $256,000. This amounted in substance to compensating the beneficiaries of the treaty of 1838 at the rate of $1 per acre for their claims to lands in Kansas under said treaty, and also their proportionate share of the $400,000 provided to be appropriated in that treaty.

After March 21, 1859, an order of the Secretary of the Interior was made which directed that the tract of land in Kansas Territory, known as the New York Indian reserve, should be surveyed, with a view of allotting a half section each to such of the New York Indians as had removed there under treaty provision, after which the residue was to become public domain. After this, and before the proclamation of the President of said lands as part of the public domain (December 3 and 17, 1860), the New York Indians employed counsel to protect and prosecute their claims in the premises, asserting in the powers of attorney that the United States had seized upon the said lands contrary to the obligations of said treaty, and would not permit the said Indians to occupy the same or make any disposition thereof, and the said Indians have steadily since asserted their said claims.

Of the sum of $400,000, agreed by the treaty of Buffalo Creek to be appropriated by the United States for the purposes mentioned above, only the sum of $20,477.50 was so appropriated (except as hereinafter stated). Of this sum only $9,464.08 was actually expended, and this sum was expended for the removal, more than five years after the ratification of the treaty, of some of the 260 individuals mentioned above; but in addition to said sum of $9,464.08 there was paid for the Tonawanda band of Senecas $256,000, as mentioned above.

The above facts have all been ascertained by the committee in its investigations, and after a careful examination of the record evidence bearing upon the claims of the Indians.

In addition, a bill of substantially the same character as the one under consideration was introduced into both Houses in the Forty-seventh Congress, and was favorably reported to the House by the House Committee on Indian Affairs (House Report No. 2001, Forty-seventh Congress, second session), and in the next session was referred by the Senate Committee on Indian Affairs to the Court of Claims under the "Bowman act," so-called. That court, after hearing counsel for the Indians and the United States, and after full consideration of the case, as appears by its findings, duly reported to the Senate its findings (Senate Mis. Doc. No. 46, Fifty-second Congress, first session), which in all respects bear out the conclusions of the committee above set forth. The amount due the Indians under the treaty, as ascertained by the committee and the Court of Claims, is $1,971,295.92, after making all allowances for credits in behalf of the United States.

In view of these facts the committee recommends the passage of the the bill with the usual allowance of interest in cases of Indian claims and judgments of the Court of Claims, namely, 5 per cent from the 5th day of November, 1857.

As respects the legal rights of the Indians under the treaty under consideration, the committee deems it necessary to advert to but one feature of the case, namely, the question of the effect of the fact that

the Indians did not remove to the Kansas lands within five years after the ratification of the treaty.

This question has had the committee's full and careful consideration, and the committee is clearly of the opinion that it presents no difficulty whatever in the way of the rights of the Indians. The language of the treaty, as above appears, is that the Kansas lands were set apart for the Indians on condition that such of them as should not *accept* and *agree* to remove within five years, *or* such other time as the President might from time to time appoint, should forfeit to the United States all interest in the lands. It is seen at a glance that the condition was not removal, but *agreement* to remove, to be evidenced by *acceptance* by the Indians of the terms of the treaty. They did *accept*, and thereby *agreed* to remove (except the St. Regis tribe, as to whom, as above appears, the treaty was modified in this respect), and thus literally and fully they complied with the imposed condition.

All question of a forfeiture thus disappeared. It remained only for the President to appoint a time or times for the removal of the Indians. This the President never did, and as, in violation of the stipulations of the treaty, by including the lands within the territorial limits of the State of Kansas, throwing them into the public domain and selling them and receiving the money therefor, the United States has made it impossible for the Indians to be removed; a removal is now wholly out of the question, and this, too, without any fault of the Indians.

In these views the committee has the support of no less an authority than the Supreme Court of the United States.

The treaty of Buffalo Creek (with its supplement of 1842, which, however, does not affect the claim under consideration) and the mutual duties of the United States and the Indians thereunder have been twice considered by the Supreme Court of the United States, and the court has spoken on the subject with no uncertain sound:

> Neither treaty made any provision as to the mode or manner in which the removal of the Indians * * * was to take place. * * *
>
> The removal of tribes and nations of Indians from their ancient possessions to their new homes in the West, under the treaties made with them by the United States, have been, according to the usage and practice of the Government, by its authority and under its care and superintendence. * * *
>
> The negotiations with them as a *quasi* nation, possessing some of the attributes of an independent people, and to be dealt with accordingly, would seem to lead to the conclusion, *unless otherwise expressly stipulated*, that *the treaty was to be carried into execution by the authority or power of the Government*, which was a party to it; *and more especially when made with a tribe of Indians who are in a state of pupilage and hold the relation to the Government as a ward to its guardian.* * * *
>
> The treaty of 1838 contemplated a removal to the tract west of the State of Missouri, *and putting the Indians in possession of it.* A large fund was appropriated and in the hands of the Government, to be disbursed *in aid of such removal*, and of their support and encouragement after their arrival. It did not, therefore, separate those Indians from the care and protection of the Government on its ratification, but contemplated further duties towards them, and for such means were supplied. * * *
>
> We hold that the performance [of the conditions of the treaty] was not a duty that belonged to the grantees, but to the Government, under the treaty. (Fellows *v.* Blacksmith, 19 How., 366.)

On the second occasion when the treaty was under consideration by the court its language was:

> This court have decided in the case of Fellows *v.* Blacksmith (19 How., 366) that this treaty has made no provision as to the mode or manner in which the removal of the Indians * * * was to take place; *that it can be carried into execution only by the authority or power of the Government*, which was a party to it. *The Indians are to be removed to their new homes by their guardians, the United States.* (New York *v.* Dibble, 21 How., p. 371.)

And the views of the committee are further supported by the treaty making and legislative branches of the Government.

Thus, following the decision of the Supreme Court in the case of Fellows *v.* Blacksmith, which was rendered March 5, 1857, a treaty was made with the Tonawanda band of the Senecas, as above set forth, on November 5, 1857, by the terms of which those Indians (part of the New York Indians), in consideration of the release by them of their claims to the Kansas lands and to the right to be removed thither and to support and assistance after removal, and all other claims against the United States under the treaty of Buffalo Creek, were paid by the United States (by investment for their benefit) the sum of $256,000, which sum, as above stated, amounted in substance to compensating those Indians at the rate of $1 per acre for their share of the lands and also their proportionate share of the $400,000 provided by that treaty to be appropriated. It is to be noted that this action was taken by the United States more than *nineteen* years after the date of the treaty and more than *fifteen* years after its proclamation as amended, a fact showing beyond all doubt that after the Supreme Court had spoken on the subject the United States, speaking by its highest branch, the treaty-making power, unequivocally recognized the double fact that it was the duty of the Government to remove the Indians and that the lapse of more than five years played no part whatever in the matter.

Another not less striking feature of the matter is that the Tonawanda band was not represented in the execution of the treaty, and, accordingly, should least of all be entitled to compensation in the premises. This fact was urged on the argument of Fellows *vs.* Blacksmith, as invalidating the treaty of Buffalo Creek, but the court made short work of the point, saying (19 How., p. 372):

> An objection was taken, on the argument, to the validity of the treaty, on the ground that the Tonawanda band of the Seneca Indians were not represented by the chiefs and headmen of the band in the negotiations and execution of it. But the answer to this is that the treaty, after executed and ratified by the proper authorities of the Government, becomes the supreme law of the land, and the courts can no more go behind it for the purpose of annulling its effect and operation than they can go behind an act of Congress.

In view of this fact the Tonawanda treaty becomes to the last degree significant. Of course, if those Indians were not parties to the treaty of Buffalo Creek, they had no claims to yield in consideration of a money payment: and yet, not having been actual parties, they were the first and only portion of the Indians to be compensated for the Government's broken faith.

The committee having thus the support of the Supreme Court and the treaty-making power, has the support of the legislative branch of the Government also. In the sundry civil bill of March 3, 1859, the rights of these Indians are distinctly recognized. That act (11 Stats., 430, 431) authorized the issue by the Secretary of the Interior of patents for land to certain Indians in Kansas, but expressly declared "that nothing herein contained shall be construed to apply to the New York Indians or to affect their rights under the treaty made by them at Buffalo Creek." Following, as it did, the decision of the Supreme Court and the treaty with the Tonawanda band, this act can be viewed only as a distinct and intentional recognition of the rights of the Indians in the premises.

As respects the question of interest, the committee is equally clear in its recommendation.

The rule of the law on this subject is well understood.

Interest should be allowed in all cases of contract where it is the duty of the debtor to pay money without a previous demand. (West Republic Co. *v.* Jones, 108 Pa. St., 55.) Whenever a debtor knows what he is to pay and when he is to pay it he is chargeable with interest if he neglects or refuses to pay it. (Curtis *v.* Inerarity, 6 How., 146; Young *v.* Godbe, 15 Wall., 562; Dodge *v.* Perkins, 9 Pick., 369.)

Where one receives an advantage or benefit from the use of money of another he is chargeable with interest. (Lewis *v.* Bradford, 8 Ala., 632; Miller *v.* Bank of N. O., 5 Wheat., 503; Sims *v.* Willing, 8 S. and R., 103; Killian *v.* Eigenmann, 57 Ind., 480.) If an amount is capable of being ascertained the account is so far liquidated as to bear interest. (Graham *v.* Chrystal, 1 Abb. Pr. N. S., 121.)

Tried by this rule of the law, this case properly calls for the allowance of interest from November 5, 1857, the date of the Tonawanda treaty; because by that treaty the United States admitted both knowledge of the amount payable by it and its obligation to pay; because the time of payment to the Tonawandas was, by the treaty, the confessed time of payment of all of the Indians; because the amount payable to the Indians was at that time so capable of ascertainment, and in fact so ascertained, as to be, in contemplation of law, liquidated, and because from that time, at least, the United States had the benefit of the use of money properly payable to the Indians.

In addition, there appear to the committee strong equitable reasons for the allowance of interest in this case, namely:

First, the bill provides for the payment by the United States to the Indians at the rate of $1 an acre only for the lands in question, whereas the price actually realized by the United States from the sale of the lands was $1.22 per acre net.

Second. The United States at an early period disposed of the 500,000 acres of land in Wisconsin belonging to the Indians and the 1,824,000 acres in Kansas, and the proceeds in each case were received into the Treasury of the United States, and the United States has ever since had the use of the moneys derived from the lands.

Third. Upon the execution of the treaty with the Tonawandas on November 5, 1857, the United States paid and invested for those Indians the sum of $256,000, so that they have since that date had the benefit of that sum of money, representing as aforesaid their interest under the treaty.

Fourth. On March 21, 1859, the Secretary of the Interior directed the Commissioner of the Land Office to cause the Kansas lands to be surveyed with a view of placing them on the market for sale as part of the public domain, and they were so placed on sale in accordance with the proclamations of the President of December 3 and 17, 1860, notwithstanding that the Indians in the fall of 1859, and in advance of the proclamations of the President, employed counsel, protesting against the action of the Government in the premises, to secure indemnity, and from thence hitherto they have continuously asserted their rights, and have been engaged in so doing at the cost of great labor and expense to themselves, and the delay in procuring a settlement has not only been no fault of the Indians, but also has been in the face of their repeated and earnest efforts.

Fifth. As above stated, if indemnity was due to any of the Indians at the time of the Tonawanda treaty, as was confessed by the United States by the fact of entering into that treaty, it was due to all of the Indians, and all of them should be put upon the same footing in point of justice.

Sixth. The United States has had the use of the $423,000 stipulated by the treaty of Buffalo Creek to be paid to the New York Indians ever since the conclusion of that treaty, less the amount paid to the Tonawanda band, a fact recognized in terms by the Supreme Court of the United States in its decision in the case of Fellows *vs.* Blacksmith, in which the court treats the treaty as in effect effecting an appropriation.

And in this connection the committee desires, in conclusion, to call attention to the well-considered report of Senator Jackson, from the Senate Committee on Claims, submitted at the first session of the Forty-eighth Congress (Senate Report 326), in which is noted a long list of acts of Congress allowing interest to every class of claimants, especially to the Indian tribes and nations.

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ONEIDA INDIANS

TREATIES WITH THE STATE - THEIR

RIGHTS TO THEIR LAND

ALBANY - 1907

Albany Argus -

OCTOBER 16, 1907.

INDIANS APPEAL TO GOVERNOR

DELEGATION OF ONEIDA CHIEFS YESTERDAY SOUGHT HIS PROTECTION.

Unscrupulous White Men Asserted to be Plotting to Get Possession of What Little Lands the Oneida's Still Own—Formerly Was Part of Hunting Grounds of the Tribe.

Oneida

It is many moons, some say 40 snows or more, since the Governor of the State has been appealed to by Indians to extend his strong arm for their protection. But yesterday Governor Hughes gave a hearing to a delegation of Oneida chiefs. Their spokesman, Chief William Honyoust, seconded by Simeon Elm and Baptist Day, informed the Governor that unscrupulous white men were plotting under guise of mortgage foreclosures and partition suits in the white man's courts to get possession of what little lands the Oneidas still own.

The land immediately involved is about 30 acres, and lies about four miles south of the city of Oneida. The legal documents describe it as within the city limits. On the land are now living a score of descendants of the original Oneida Indians, and the land is not only a remnant of the Oneida reservation, but a part of the land over which no red man save an Oneida ever had the right to hunt.

It is understood that the wily whites have paper deeds and decrees based on the claim that the Oneidas are citizens, who may buy, sell and mortgage the same as the whites. In this case, however, the Oneidas living on this piece of land claim that they constitute an Indian band, and that this land has never been owned in severalty nor paid a white man's tax, and that they are still the political subjects of a red men's government.

Fearing that the sheriff of Madison county might soon disturb their peaceful possession and evict them, they have invoked the Governor to make good the State's guardianship over its dependent Indian wards.

Governor Hughes listened attentively to the brief and concise address of Chief Honyoust, and assured the delegation of their right to come to him, and that he would do whatever was proper to protect them. The Governor has referred the matter to Attorney-General Jackson to investigate and advise him. Deputy Attorney-General Decker has been assigned by the attorney-general to take up the investigation.

State of New York.
Attorney General's Office,
Albany.

WILLIAM SCHUYLER JACKSON
ATTORNEY GENERAL

10/28/07

Dear Mr Lamson -

I enclose a copy of a report sent to the governor today which I thought might interest you as the Oneidas - I took great interest in digging the matter out -

I presume it will become public tomorrow through the governor's office but in advance of that I do not wish to give it out -

I was surprised to find that there were Oneidas who still held land under tribal rights but the facts are too plain in this instance to avoid -

Yours truly

Geo Palmer

(Geo P. Palmer
Deputy Att'y Gen'l)

State of New York.

Attorney General's Office,

Albany,

WILLIAM SCHUYLER JACKSON
ATTORNEY GENERAL

October 28th 1907.

Hon. Charles E. Hughes,

Governor of the State of New York,

Executive Chamber, Albany, N. Y.

S i r : -

Complying with your request of the 15th inst. that I examine into the matter of the petition filed with you by Chiefs of the Oneida Indians and advise as to whether any tribal rights of Indians are involved and if so, then as to measures which, in my opinion, should be taken by the State, I have investigated and considered the facts.

The complainants expect to be dispossessed of a parcel of land comprising about thirty-two acres, situate in the former Town of Lenox, County of Madison, under a judgment and sale in a partition action pending in the Supreme Court, wherein plaintiff, a white woman, claims an undivided share through individual conveyances made by certain Oneida Indians.

Hon. George F. Lyon, presiding at the October Madison Trial Term, on being advised by this Department of the investigation, readily acquiesced in the suggestion that proceedings in the action should be temporarily stayed and directed such stay.

By treaty made between the State and the Oneida Indians at Fort Schuyler in 1788, the State obtained its first and largest cession of the Oneidas' lands. That treaty provided that the People of the State might prevent any persons, except Oneidas, from residing or settling on the lands reserved to the Oneidas and their posterity by the treaty and that if any person should, without the consent of the State, come to reside or settle on such reservation, then the Oneidas and their posterity should forthwith give notice of such intrusion to the Governor, and further that the Oneidas and their posterity forever should, at

the request of the Governor, aid the State in removing all such intruders. That provision has not been abrogated, expressly or by implication, in subsequent treaties, or otherwise. If obsolete, it is because the reservations have ceased to exist.

The thirty-two acres in question, if reservation land, is, with the possible exception of another smaller parcel, the sole surviving remnant in Madison County of the Oneida Reservation. This parcel consists of land of which the Oneidas were possessed before the locality was settled by the whites. It is not, then, land to which any existing Indian rights ever originated through direct cession or patent from the State or through subsequent conveyances from white men, whereby a tenure under State law might have been impressed upon it.

The Indian Law provides, (Sec.8), that, except as provided by law, no person shall settle or reside upon any lands owned or occupied by any nation, tribe or band of Indians.

The Public Lands Law provided (Sec 7), that the Commissioners of the Land Office may require the sheriff of any county to examine and report to them all trespasses committed upon Indian lands in such county. Those regulations were controlling upon and addressed to citizens of the State other than Indians.

By treaty made on June 19, 1840, between the State and the Oneidas then remaining therein and known as the First and Second Christian Parties, and from whom the present complainants descended, and by which treaty their reservation was further reduced by cession to the State, but left so as to include the parcel of land in question here, it was provided, (Art.VI), that the lands reserved thereunder should not be liable to any sale or transfer, absolute or conditional, or subject to any lease or mortgage, to any person or body, other than the People of the State of New York.

Under those provisions, it is properly and necessarily a matter for Executive inquiry as to whether there in fact remains

any land, the intrusion upon which, by white citizens of the State, would constitute a violation of Indian rights which the State obligated itself to protect.

From examination of the records of the State departments and of transactions of record in the County of Madison, and from interviews with the Oneida Indians residing upon the land in question, and with counsel in the partition action referred to, I have ascertained as follows:

A tri-partite treaty was entered into on May 23, 1842, between the First and Second Christian Parties of the Oneida Indians, then residing in the Town of Lenox, Madison County, and the People of the State of New York. The latter acted through the Commissioners of the Land Office. That treaty had reference to the then existing reservation of 1388 acres, situate in the Town of Lenox, and was concluded at a time when a portion of those Indians intended to emigrate to Wisconsin, the others desiring to retain their old home. Preliminary to that treaty and under aid of the State, a survey of that reservation into nineteen lots of convenient sizes, had been made. The treaty ceded certain of those lots to the State. At the same time and by the same instrument, the emigrating party (Art.VI), released to the home party and its successors, all right, title and interest in the lots to be retained by the latter, the treaty declaring that "the lots so reserved shall be deemed the common property of all the Indians to remain and who are enumerated in 'Schedule B' hereto annexed." The thirty-two acres in question is part of Lot No.17, as so surveyed. (Map, new No.673, Secretary of State's Office).

"Schedule B" recited that it contained an accurate list of all those of the First and Second Christian Parties of the Oneida Indians who "held their lands in severalty," the number of souls located on such lot, their names and the number of the lot. Nevertheless, no separate parcel was allotted to any individual

Indian, nor was Lot No.17 carved into smaller parcels. Among the families, groups or small bands to which particular reserved lots were allotted, was a group or band of twenty-three Indians, allottees of Lot No. 17. The field notes accompanying the map indicate that this group of twenty-three included four families, as the term family is understood among the whites. The group included Aaron Cooper, also seven other Coopers, presumably wife and children; Moses Charles, Caty Charles, believed to be his wife and Margaret Charles, Susan Charles and Mary Charles, their children; Elizabeth Cornelius and three other Corneliuses, presumably her children; Job Antone and five other Antones, probably his wife and children. Appended to "Schedule B" is the certificate of the chiefs and headmen that the schedule shows the names and numbers of the Oneidas who intend to remain on their reservation and to hold their lands "in severalty" and that the field book and map and certificate of survey accurately show the respective owners of the said lots annexed to their respective names and the quantity of land to which they are respectively entitled. The treaty contains nothing more bearing upon the question of the extent or nature of the interest thus acquired by the twenty-three individuals, making up this group in Lot No. 17. Nothing subsequent to the date of that treaty has been found, after careful search, indicating that the common and undivided interests of the members of this group in Lot No. 17 was ever severed by any act or authority of the group or of any tribe of which they formed a part and whereby any one or more of them acquired the right as against the others to the exclusive title or possession of the thirty-two acre parcel in question out of Lot No. 17 or any part thereof. That thirty-two acres of land has never been in the actual possession of whites, or any part thereof, but from the earliest times to this day, the whole thereof has been in the exclusive possession of the band petitioning herein, or of their ancestors. Neither the whole or any part

of this parcel of thirty-two acres has ever been taxed by public authority under State law, either before the making of the deeds, hereafter referred to, under which whites have claimed rights in that land, nor since the making of those deeds down to this day. The plaintiff in the partition action, has, therefore, never been in possession, unless she be in constructively.

At the present time, twenty-four Indians, all Oneidas, excepting one, a Tuscarora and the wife of an Oneida and two, St. Regis, according to Indian descent, their father being one of those Oneidas, consider this land their home. The twenty-four are not there continuously, many being absent from time to time at various employments. The twenty-four, nevertheless, constitute in fact a band who use this parcel of land among themselves, according to the community of interest incident to Indian custom. Under that community of interest each member of a band has ~~full and~~ equal enjoyment of the whole land. Indians had no system for permanent division of that community tenure. There are two houses on this land and one of them, about twenty years ago, gave shelter one winter to no less than twenty-two Indians. There is no record of any documents purporting to release this thirty-two acres, or any part thereof, executed by any of the eight Coopers, the four Corneliuses or the six Antones, all being treaty members of the group to which this parcel was allotted. Nor is there record of such releases by the descendants of those members. The only recorded document found whereby any of this group of allottees assumed, prior to 1882, to convey, either under the authority of the State, or with tribal consent, was a deed from Moses Charles purporting to convey his share, described as 7.44 acres in Lot 17, located by meters and bounds, which did not include the 32 acres, to another Oneida Indian, Daniel Scanandoah, his heirs and assigns. That deed, dated November 12, 1844, is recorded in Liber BG Madison County Clerk's Office, Page 392, and endorsed with the approval of tribal agent, Nathan Burchard and of the

First Judge of Madison County, as our statutes then provided. While Moses Charles may have thus conveyed his own individual interest, the deed left the separate interests of his wife, Caty, and of the three children, arising under the treaty, in their own shares, unaffected.

The judgment in the partition action recites that plaintiff is entitled only to an undivided 31/40 interest in this land and she rests her claim upon conveyances executed since 1881 by individual Oneidas, including a mortgage made in 1885, reciting that it is security for the payment of the sum of $1250, made by the mother of certain members of the present band and since foreclosed, not by action, but by advertisement. The abstract of title produced in the case begins with the year 1882. The referee found that the remaining undivided 9/40 share was held by four defendants. Those defendants are among the surviving successors or descendants of the original members of the group to whom the whole parcel as a part of Lot 17 was allotted. That allotment, as we have already seen, was an inter-tribal act of the Oneidas in 1842, the State, by its presence and in receiving a cession of other lots to it, by the same treaty, consenting thereto. The referee found this thirty-two acres to be worth $2,000. It was struck off at the partition sale for $725. The costs allowed would make a 9/40 share coming to Indians about $50. That sum, if equally divided among the Indians who have a home on this land, would amount to a trifle over two dollars each as the equivalent of the right of each and his posterity forever to enjoy a community use of the whole parcel. Under the judgment, four of the Oneidas only participate in the fifty dollars.

The referee was of the opinion that all Oneida Indians of this State are citizens thereof, holding their lands in severalty with no tribe in existence to claim their allegiance. He also found that xx a sale of this whole parcel was necessary to effect

a partition. The record recited that the defendants appeared and pleaded that the court had no right to entertain the suit. Many Oneidas who claim a home on this land were not brought in as parties.

When invoked for protection by an Oneida band, there are facts which State officers may not ignore. The Federal government still recognizes the present New York Oneidas as entitled to receive and still dispenses through their chiefs and to them as survivors of the ancient nation, the annuity of goods provided by Federal treaty of November 11, 1794, with the Six Nations. That treaty acknowledged the lands reserved under State treaty of 1788 to the Oneidas. Our State has recognized the New York Oneidas as a tribe or band by treaties concluded subsequent to 1842, the last having been made on February 25th, 1846 and recognized a tribal government in existence as late as 1870, when, by Chapter 445, Laws of 1870, the Commissioners of the Land Office were empowered to further treat with them. Before the Governor, the petitioners claimed the standing of chiefs and spoke for the present occupants of this land, who claim to survive as a band and, however small, to be entitled as such to peacable possession and they deny that they hold by several individual interests. The male occupants interviewed, disclaim citizenship with us, although admitting that they had voted once or twice at our elections, but on occasions when they were either under compulsion of white employers or acted under mercenary inducements to vote offered by whites. Many of the surviving Oneidas, however, residing in that locality, live on lands leased or purchased from whites and by not living a tribal life, by invoking our courts, submitting to taxation and by repeated participation in our elections, have evidenced their desire for citizenship, and may have acquired that status. Coupled with the use in certain treaties of the term "inseveralty", that accounts for a popular impression, undoubtedly entertained, that the Oneida tribe in this State is extinct and that the reservation ceased

long ago to exist.

The question presented here is insignificant in the light of the property value involved and affects but a score of Indians, but the duty of the State is, if anything, more pronounced under these circumstances.

While the treaty of 1842 speaks of "a holding in severalty" by the remaining Oneidas of the lots retained by them, it is apparent from the nature of the actual transaction between the emigrating and home bands as evidenced by the treaty, that they did not in fact effectuate any specific allotments in severalty as individuals, nor did those bands cede or take under State law. The State, in treating with them, acknowledged the competency of those bands to act in their own right. The treaty, at the most, effected an allotment in severalty only as between sub-bands or groups. The treaty, the schedule and field notes all recite, moreover, that the members of each group hold as between themselves, a common interest, not to themselves and their heirs and assigns, but to themselves and their successors. The emigrating party renounced their interest in all the reserved lots to all the Indians named in "Schedule B." If, then, all the individuals of any group to whom a separate parcel was allotted, had died, all the other groups would succeed to that parcel. The treaty effected a modification of the ancient Indian tenure of perfect community of interest throughout the whole tribe and to all their lands to the extent that the different parcels allotted to groups were as between the groups and so long as the groups exist, to be held in severalty as between groups. That, however, fell far short of constituting a tenure by severalty, as known to our law and under which any individual of a group was competent without the consent of the group, properly evidenced, to transfer his undivided interest to any one outside the group, or by his own act to convert his undivided interest into an exclusive right to any specific part of the whole tract allotted to

the group.

The popular understanding as to what constitutes an Indian tenure in severalty is no doubt founded on allotments as made by the Federal government to Western Indians. Those allotments have been of lands owned by the Federal government and conveyed by it to individual Indians. Here we find no such situation. The consent given by our Legislature to Oneida Indians to take, hold and convey Indian reservation lands as citizens might, has been permissive, but such conveyances do not originate a tenure under our laws until, as between himself and his tribe, the Indian grantor has acquired individually a severable interest or a specific parcel. When he has, he may then hold as a citizen holds under our law or alien his interest or parcel to a citizen.

No statute of this State has assumed by its own force to change the interest of the members of an Indian tribe to land held by the tribe under Indian tenure into several interests or into an exclusive right to distinct parcels.

The whole history of the State's dealing with Indians evidences the recognition by the State of the right of a tribe to give or withhold consent to the acquiring by strangers of interests in common or undivided between such strangers and Indians.

By treaty made on March 13, 1841, it was provided (Art.VI), that when any Indian family desired to have land out of a reservation divided off to it in common, or two or more families so desired and the remaining members of the party or band assented, the Commissioners of the Land Office were then directed to aid in effecting such division, but the lands so set apart were not to be subject to sale or transfer, absolute or conditional, or to any lease or mortgage to any person other than the People of the State of New York. That treay provision has never been abrogated.

Chapter 185, Laws of 1843, was passed the year following the making of the Treaty of 1842 and served as a legislative ratifi-

cation. It was there provided, (Sec.3), that any conveyances of any part of the reserved lands were to be made by the Superintendent of the tribe and acknowledged before the County Judge. Section 5, however, recited that when lots were to be sold, it must be only upon consent of the majority of the chiefs and headmen and referred to the tenure by which the lots were held as being "according to Indian usages" and the land as being the common property of all the Oneidas. Conveyances thereof were required to be executed by the Superintendent in connection with "the consent of the chiefs and headmen in council" and the proceeds of such sales were to be paid by the superintendent to such chiefs and headmen. Section 6 provided that conveyances made in the manner stated should vest in the purchaser and his or their heirs and assigns, an absolute estate of inheritance in fee simple. That act remained in force until repealed by the Indian Law in 1892. As to the lands of the Oneidas, that act must be deemed to have provided an exclusive method of conveyance whereby the tribal title might be extinguished.

By Chapter 486, Laws of 1847, it was provided that thereafter conveyances executed by any Oneida Indian or Indians, might be acknowledged before any justice of the peace and the office of attorney for the tribe was abolished and the duties vested in the superintendent. Section 3 provided that two years after the passage of the act, Oneida Indians should have power to sell and convey real estate the same as if they were natural born citizens. That act remained in force until repealed in 1892 by the Indian Law. It no doubt superseded the act of 1843, so far as it was inconsistent with the former. It did not, however, assume to convert by its own force an existing tribal tenure into a tenure under our law. It did not create in any Indian any property interest different from that which he before held. It was, moreover, an acknowledgment by the State that Oneida Indians were aliens politically as later acts have also acknow-

ledged. The act, then, did not supersede the former act so as to dispense with the consent of the tribe in case of sales or conveyances of tribal lands or in partitioning tribal lands among tribal members. There was no tribal land, then, for the act to operate on until individual Indians should thereafter become possessed of severable interests therein or of specific parcels with tribal consent.

By Chapter 420, Laws of 1849, it was provided, (Sec.7), that all bands of Indians who own or occupy reservations within the State as common property of such bands, might, by the act of their respective Indian governments, divide such lands into lots among individuals or families, so that the same could be held in severalty and in fee simple according to the laws of this State, but that no land so held by any Indian under our laws should be set off to any person other than the occupant or his family and by section 10 it was evidently intended that no lands thus partitioned should, within twenty years, be alienable to a person outside the tribe. That section also declared without any time limit that lands so partitioned should not be subject to any lien or incumbrance by way of mortgage, judgment or otherwise.

Assuming here a true partition in severalty and tenure in fee of this land with tribal consent was effected prior to 1892, when the act last cited was repealed by the Indian Law, then the mortgage to which plaintiff in the partition suit traces her title and which was given in 1885, while the land was held by Indians, was taken in violation of that statute.

The present Indian Law, (Sec.7), continues the provision extending the right to individual Indians who have, by the act of their own Indian government, acquired individually a tenure in severalty or a specific piece of land, to hold the same in fee according to the laws of this State, but it continues the prohibition against setting off lands, prior to such tribal partition, to any other than the occupant or his family. The deeds

effecting such partitions, before they are entitled to record, are to be approved by the judge of the county.

We thus fail to find the necessary legislative ~~approval~~ consent required by the Constitution of the State (Art.I, Sec.15), to support the title asserted by plaintiff in the partition action.

This band of Indians had no standing in that suit had they been impleaded or had they sought to appear therein.

Our Court of Appeals so held in Johnson v. Long Island R.R. Co., 162 N.Y.,462, saying that to recognize a tribe as a litigant would be contrary to the policy and practice which has long been established in our treatment of Indians, who are to be regarded as wards of the State and possessed of only such rights to appear and litigate in courts of justice as are specially conferred by legislation. Certain members of this band, not the band itself, were before the court in the partition suit.

It was held in the Federal courts in United States v. Elm, 25 Federal Cases, No.15,048, that the defendant, an Oneida Indian, was entitled to vote. In reaching its conclusion, the court said that all New York Oneida Indians were citizens, but seemed not to be advised of the facts here referred to and of which State officers must take notice, showing that a remnant of those Indians still survive as a band with a community tenure of the land they occupy in peace and have been recognized by the State as such band and are untaxed and that members of the band disclaim political allegiance to the State. That is sufficient to distinguish the situation of the Indians in such band from that of Elm.

In Elk v. Wilkins, 112 U.S.,94, where it was held that an Indian, separating himself from his band, was not a citizen, the Elm case escaped criticism only because the Court assumed the facts stated in the Elm case were historically true.

If a person is born a political alien of the State, it would seem as essential in determining whether he was a citizen to require evidence of his personal consent to assume the new allegiance as to know that the State was willing to receive him. We find no statute by which the State has undertaken to declare all Oneida Indians citizens, regardless of their own consent. To determine the fact of citizenship in case of a particular Oneida, then, requires a special inquiry as to his history. Where his consent is the only element lacking to determine the question, the fact that he has voted should be prima facie evidence of his acceptance of ~~the~~ an invitation to assume the new allegiance. But the question here does not turn upon the citizenship of the parties to the partition suit.

Where the record of the last transaction between the State and an Indian band leaves the band in existence and there are still surviving Indians with chiefs to speak for them, who claim to be such band or tribe, they must be recognized as such now by State officers. State laws and the rules which are applied under State laws and through its courts between citizens or between citizens and the State, such as the statute of limitations, the presumptions of grants and constructive possessions, cannot be applied to dispose of the claim of an existing band of Indians to protection under the guardianship assumed by the State toward the dependent Indians within its borders or guaranteed to them by treaty. That relation of guardianship and the reason for it are too well known to require extended reference here.

In Goodell v. Jackson, 20 Johnson, 693, the court said, at page 725:

> "It was worthy the character of our people enjoying so great a superiority over Indians; in the cultivation of the mind; the lights of science and the distinctions of property and the arts of civilized life, to have made the protection of the property of the feeble and dependent remnants of the nations within our limits, a fundamental article of government. It is not less wise than it is just to give that article a benign and liberal interpretation in favor of the beneficial end in view. We are bound to the performance of that undertaking not only by duty but by gratitude."

As to the attempt made in that case to evade the constitutional prohibition against purchasing lands of Indians, where the purchase in question had been made of one Indian instead of several, the Court said that the transaction was within the mischief as well as within the spirit, if not within the strict letter of the Constitution and that any other construction would withdraw all purchases in detail made of individual Indians, from the protection of the constitutional prohibition.

An uninterrupted line of court decisions from the time of that decision (1823) down to the present affirms that declaration of the dependence of the Indians upon the State and of the obligation on the State's part to extend them its protection.

As to the nature of treaty obligations entered into by the State with Indians, Governor Jay said, in his message of November 1st, 1796:

> "These treaties are contracts of the State."

He added:

> "We must lead the Indians to rely on our protection."

The making of an original entry upon Indian lands to come under the jurisdiction of the State, is an act of sovereignty to be performed in such manner as the Legislature may provide. It is not to be accomplished through judicial action unless expressly so authorized.

In People vs. Dibble, 16 N.Y.,203 (1857), where it was claimed that the removal of intruders upon Indian lands could

not be enforced except by jury trial, the court said that no citizen could acquire a right to enter upon Indian lands until the occupant Indians had been removed by the act of the citizen's own State government. The court there upheld a summary proceeding to remove citizens who had sought to usurp the State's sovereign function. Plaintiff in the partition action, then, may not put herself into possession and dispossess this band through any process purely incidental to her private action.

In Cayuga Nation v. State, 99 N.Y.,236, where Indians had invoked the courts, the court considered the rights arising out of an Indian treaty and said of a treaty between the State and the tribe:

> "That transaction was a public and not a private one. The treaties were obligatory upon both parties. If violated by either, the other contracting party can alone demand satisfaction and no citizen of the State nor an individual member of the Indian tribe can complain. So long as the State recognizes the tribal organization as existing and deals with it as a nation, the courts and officers of the State must so regard it."

The State alone, then, is competent to come in contact with its existing Indian tribes in matters affecting their rights in reservations arising out of State treaties.

In construing the exemption of reservation lands when actually occupied by Indian bands from taxation, as expressly provided by statute, the Court held in People vs. Beardsley, 52 Barb., 105, (Affd. 41 N.Y., 619), that while that statute was, of course, effective upon the citizens and public officers of its own force, it was quite unnecessary as to the Indians themselves, because the State had no power in itself to tax such lands ~~because~~ not being subject in the nature of the case to the jurisdiction of the State. The fact that our public authorities have never taxed this parcel of land forbids the State now to take an inconsistent position.

If the rights of this band are violated by citizens of the State and especially if done under color of official action, the right to make a public claim would accrue to this band for adequate redress at the hands of the State. If the band is dispossessed, its homeless members would probably become objects of charity. It is but natural, under those circumstances, that the State should be invoked by a band for many years lost to general notice. As much should have been expected by our citizens who trafficked with two or three of the members without leave of the band or of the State.

The ground I take in reaching my answer to the question referred is, that this Indian band has long been and still is in peacable possession of this land under a claim of right as against the State and acknowledged by the State. In my opinion, if the band is dispossessed under a sale in the pending suit, that act would constitute a violation of Indian rights.

Our courts have power to look behind their own record to discover who the real parties in interest may be and to take cognizance of outside facts to determine whether there are public interests to be prejudiced. The stay of proceedings directed by the Supreme Court indicates the desire of that department to be informed of facts not revealed in the private suit. The Governor approving, such information will be laid by this Department before the Supreme Court.

Respectfully submitted:

W. S. Jackson

Attorney-General.

STATE OF NORTH CAROLINA,
DEPARTMENT OF STATE,
RALEIGH, April 5, 1911.

MR. LUTHER W. JACK,
Secretary People's Rights Society,
Lewiston, N. Y., R. F. D. 18.

DEAR SIR:—Your communication to the Governor has been referred to me, with the request that I give you information concerning the claim of the Tuscarora Indians to a reversionary interest in certain lands in Bertie County.

After the Tuscarora Indian War, about 1712-1715, most of that Nation moved to join the Iroquois in New York. A part of the Tuscaroras in this State were friendly to the whites and aided them in the war. The chief of this branch of the tribe was known as "King" Tom Blount, and in recognition of his services to the whites he was on the 5th day of June, 1717 (see Colonial Records of N. C., vol. 2, page 283), granted by the province of North Carolina certain lands on Morratock (later Roanoke) River in North Carolina.

In 1748 the General Assembly passed an act, chapter 3 (see State Records of N. C., vol. 23, page 299), entitled "An act for ascertaining the bounds of a certain tract of land formerly laid out by treaty to the use of the Tuscarora Indians, so long as they or any of them shall live upon the same; and to prevent any person or persons taking up lands or settling within said bounds by pretense of any purchase or purchases made, or that shall be made from the said Indians." These lands were described as follows:

"Beginning at the Mouth of Quitsnoy Swamp, running up the said Swamp Four Hundred and Thirty Poles to a Scrubby Oak, near the Head of the said Swamp, by a Great Spring; then North Ten Degrees East, Eight Hundred and Fifty Poles to a Persimmon Tree on the Raquis Swamp; then along the Swamp and Pocoson main Course, North Fifty Seven Degrees West, Two Thousand Six Hundred and Forty Poles to a Hickory on the East Side of the Falling Run, or Deep Creek, and down the various Courses of the said Run to Morratock River; then down the River to the first Station."

This was "confirmed and assured" unto James Blount, "Chief of the Tuscarora Nation and the people under his charge, etc." Section three of this act provided that parties who had taken up grants in that area could enter and occupy and enjoy the same upon the said Indians deserting or leaving the said lands.

In 1766, chapter 29 (see State Records of N. C., vol. 25, page 507), the General Assembly passed "An act confirming a lease made by the Tuscarora Indians to Robert Jones, Jr., William Williams, and Thomas Pugh, Esquires." The lease to Jones, Williams, and Pugh was for a large part of the Indian lands on Deep Creek, the consideration being fifteen hundred pounds proclamation money. It was signed by about forty of the chieftains and head men of the Nation on behalf of themselves and the rest of the Tuscarora Indians. The term of the lease was for one hundred and fifty years, and was to secure money "in order to defray the expense of removing themselves and their effects from this province to the settlements on the River Susquehanna." This act was also for the protection of the Indians in the enjoyment of the use and rights to their lands. Section six of this act provided that nothing contained therein should be so "construed as to invalidate the title or titles to any

person or persons who have obtained a grant or grants for any tract or parcel of land within the limits within the boundaries of the land of the said Tuscarora Indians before the 15th day of October, one thousand seven hundred and forty-eight."

In 1778 the General Assembly of North Carolina passed an act (see State Records of N. C., vol. 24, Acts of 1778, chapter 16, page 171), entitled "An act for quieting and securing the Tuscarora Indians and others claiming under the Tuscaroras in the possession of their lands." This act confirmed a lease made by the Tuscaroras to Robert Jones, Jr.,* William Williams, and Thomas Pugh, Esquires, for one hundred and fifty years. It provided that Whitmell Tuffdick, Chief or head man of the Tuscarora Nation, and the Tuscarora Indians now living in Bertie County, should hold and occupy, possess and enjoy all the lands lying in Bertie County, which had heretofore been assigned to them. It forbade the leasing or purchasing of lands from Indians except by consent of the General Assembly. It confirmed the lands leased, demised, granted, or "farm let" to sundry persons between July 12, 1766, and December, 1777, except such as were obtained by fraud. It appointed William Williams, Thomas Pugh, Willie Jones, and Simon Turner, and Zedekiah Stone commissioners for the Indians, and empowered the said commissioners to hold courts, etc., for the redress of the grievances of the Indians. It further enacted that the land leased by the Tuscarora Indians to Jones, Williams, and Pugh, and to other persons prior to '77 "shall revert to and become the property of the State at the expiration of the terms of the several leases mentioned, if the said Nation be then extinct. And the lands now belonging to and possessed by the said Tuscaroras shall revert to and become the property of the State whenever the said Nation shall become extinct, or shall entirely abandon or remove themselves off the said lands and every part thereof."

In 1780 an act was passed amending the act of 1778 as to penalizing jurors and witnesses failing to respond when summoned by the commissioners mentioned in the act of 1778.

In 1798, chapter 17 (Martin's Laws, page 122), two other commissioners—William Williams of Martin and Samuel Johnston, Jr., of Bertie—were added to the number of commissioners named in the act of '78.

On November 3, 1801 (Letter Book, page 95), H. Dearborn, Secretary of War, in a letter to Governor Benjamin Williams, informs him that a deputation from the Tuscarora Indians, accompanied by an interpreter, was on the way to Raleigh to wait on him with the object "to procure from the State of North Carolina for the sale and cession of the right which they suppose still to possess, a sum of money with which to purchase the lands in the vicinity of those in which they now reside." He further notified Governor Williams that the President of the United States had appointed Hon. William R. Davie commissioner for the Indians, and that the United States gave its consent and sanction to such bargain and agreement as the State and the Indians might make.

In November, 1801, Governor Williams (Letter Book, page 18) recommended to the General Assembly the appointment of a commission to treat with the Tuscarora Indians.

This visit of 1801 seems to have been unsuccessful, for on October 18, 1802 (Letter Book, page 195), another letter from the Secretary of War, Mr. Dear-

*Father of Allen and Willie Jones.

born, to Governor Benjamin Williams, recites the fact that the chief of the Tuscaroras, with an interpreter, is on his way to Raleigh to "renew the negotiation," and that "the authority that he now brings from his Nation will be deemed sufficient for authorizing the sale." He further states that the Hon. W. R. Davie "is commissioned with full powers to attend the negotiation and give the necessary sanction and consent of the United States to such terms as the Legislature of the State or their agents and the Chief may agree on."

The General Assembly of 1802 (Martin's Laws, chapter 4, page 194) passed "An act for the relief of the Tuscarora Nation of Indians." This act authorized the chiefs to lease the lands and extend leases already made, which leases were to be confirmed by an act of the General Assembly in such manner that the whole of the leases on said land should terminate at the same period. (After the Jones-Williams-Pugh lease for 150 years, subsequent leases had been made for 99 years.) The act authorized the Governor to appoint commissioners for carrying the act into effect. The act further recites that "Whereas the Chiefs, Sacarusa and Longboard, and Samuel Smith, being duly and severally authorized and empowered by said Tuscarora Nation, have consented that the Indian claim to the use, possession, and occupancy of said lands shall cease and be extinguished when the said lease made in the year 1766 to Robert Jones and others shall expire: Be it further enacted, That from and after the 12th day of July which shall fall in the year 1916 the whole of the lands allotted to the said Tuscarora Indians by an act of the General Assembly passed at New Bern on the 15th day of October in the year of our Lord one thousand seven hundred and forty-eight, shall revert to and become the property of the State, and the Indian claim thereto shall from that time be held and deemed forever extinguished." Section six of this act relates to entries and rights of individuals. Under this act the Governor appointed commissioners to lease and sell these lands.

On the part of these commissioners, Jeremiah Slade and William Hawkins made a report to Governor James Turner dated June 20, 1803. This report can be found in the Governor's letter book for that year at page 80, and is too long to copy here. The commissioners acted in coöperation with Chiefs Sacarusa and Longboard. They sold the lands, or the undemised portions of them, which amounted to less than 4,000 acres, for $21,146.23. Settlement for these lands was made with the Secretary of War.

A map of the Indian land, dated June 17, 1803, was made by these commissioners, showing an area of 41,113 acres, and showing the various leases, with lengths of term, and filed in this office, which can be exhibited to interested parties. The metes and bounds of the map are as follows:

"Beginning on Roneoke River at the Mouth of Quitsney Swamp, thence up the various courses of the said swamp to an oak near the head at the great spring, thence No. 10 E 904 poles to a posseman on Rockquis swamp, thence N. 57 W. 2888 poles to a Hickory at the head of Falling Run or Deep Creek, thence down the various courses of said Creek to Roneoke River, thence down the River to the first station, containing forty-one thousand one hundred and thirteen acres."

The report, map, and papers accompanying them are unique and interesting documents.

All the acts in reference to the Tuscarora Indian lands provided that the reversions after the expiration of the leases in 1916 should be vested in the State.

In 1816 the Supreme Court of North Carolina held, in the case of Sacarusa and Longboard against William King's heirs, that the grant made by Governor Eden in 1717 to the Tuscarora Tribe of Indians was absolute and unconditional, and that the Indians had a fee-simple right to the lands, and not an "Indian title." (See Supreme Court Reports of North Carolina, vol. 4, p. 316.)

In 1825 the General Assembly passed an act, chapter 13, page 13, entitled "An act concerning the lands held in leases from the Tuscarora Tribe of Indians." The preamble of the act stated that persons holding these leases were subject to great inconvenience from their estates "being mere chattel interest," and for the remedy thereof the General Assembly enacted a law declaring that the land should be considered as real estate in fee simple for the term of their leases, but "*Provided*, that nothing in this act shall be so construed as to give to the individuals holding the said terms of years a right to enjoy the same for a longer period than is designated in the leases executed by the Tuscarora Indians."

On November 12, 1828, P. B. Porter, Secretary of War, notified Governor James Iredell that Sacarusa and Longboard, two principal Tuscarora Chiefs, with the grandson of the former, were on their way to North Carolina "for the purpose of adjusting some claim which that Nation supposes itself to have on lands within your State, from which they formerly emigrated." He further says: "I feel confident they will receive from your Excellency and the other constituted authorities of North Carolina that consideration which is due to a people who have no other means of enforcing their rights than the moral obligations which such rights when established impose." (See Governor's Letter Book, 1828, page 160.)

On November 26, 1828, Governor Iredell transmitted to the General Assembly a memorial from the Chiefs of the Tuscarora Nation. This memorial was referred to a special committee of the House and Senate, and the report of that committee, signed by George E. Spruill, chairman, is to be found in the Journal of the General Assembly of North Carolina, beginning at page 275. Acting upon that memorial and report the General Assembly (see Laws of N. C., session 1828-'29, chapter 19, page 11) passed "An act concerning the lands formerly occupied by the Tuscarora Tribe of Indians lying in Bertie on the south side of Roanoke River." This act recited that "Whereas the Tuskarora Indians have for more than a century been the firm and undeviating friends of the white people of this country, insomuch that the State of North Carolina is disposed not only to render to them full and complete justice, but also to exercise towards them that spirit of generosity which their conduct has merited, therefore, etc." In this act William R. Smith of Halifax, Simmons J. Baker of Martin, and William Brittain of Bertie were appointed commissioners for the purpose of advertising and selling these lands. "The title so sold by the said commissioners shall be understood to extend only to the reversion of the State in said lands after the expiration of the leases of the Indians from which they are now held." The Public Treasurer was to collect the money due on the lands and to pay the money over to the tribe or nation of Indians, or other properly authorized agent or agents; upon which the Indians surrendered and made "a full and complete release of all such claim or pretense of title as they now make or ever may have to aforesaid tract of land." Under this act these lands were sold, and the Treasurer in 1832 paid to Bates

Cook, he being appointed agent of the Tuscarora Indians, the sum of $3,220.71. The record of this voucher, No. 258, is to be seen in the Treasurer's office, book of 1832, page 377.

The Treasurer's reports show two other small items paid to the Tuscarora Indians about this time, the reason for which payments I have not looked into.

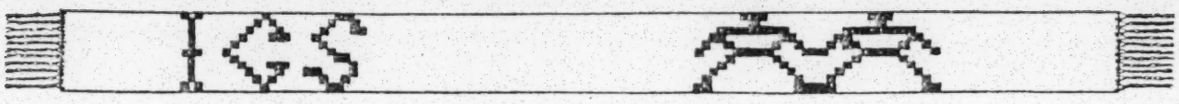
On the 19th day of November, 1831, William Chew, Nicholas Casle, George Warchief, Jonathan Printup, Mathew Jack, William Johnson, and Isaac Miller, Chiefs of the Tuscarora Nation of Indians, of the first part, in consideration of $3,250 lawful money of the United States to them in hand paid, executed to the State of North Carolina a deed by which they granted, bargained, sold, remised, released, aliened, and confirmed unto the people of the State of North Carolina, "in their actual possession now being and to their assigns forever, all their lands, tenements, and hereditaments situate, lying, and being in the County of Bertie in the said State of North Carolina, together with all and singular the appurtenances thereunto belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders thereof, and the estate, right, title, interest, claim and demand whatsoever of the said parties of the first part, either in law or equity, of, in, and to the above bargained premises, with the hereditaments and appurtenances." This deed was properly witnessed by the Indians in person coming before Robert Fleming, First Judge of the Niagara County Court of Common Pleas of New York. The signature of Judge Fleming was authenticated by Enos. T. Throop, Governor of the State of New York.

These are all the leases and papers that I find that I think will be of use to you in determining the status of your claim for the reversionary interest in the Tuscarora lands in Bertie County.

If you desire an investigation of this matter by an attorney representing the Indians, it seems to me that it would be wise for you to select some man of standing in this State who can go into the details of the matter very carefully for you. I shall be glad to assist him in finding all records connected with this transaction. I understand from Chief Mount Pleasant that an attorney at Washington City has been employed, which probably means useless expense to you all in the prosecution of an untenable claim.

Respectfully,

J. BRYAN GRIMES,
Secretary of State.



Sketch of Simcoe's Wampum Belt.

December 9, 1921.

Brig. Gen. E. A. Cruikshank,
53 Wilton Crescent,
Ottawa, Ontario,
Canada.

Dear Sir:

In reply to your letter of December 5, Mr. M. W. Stirling, Assistant Curator of Ethnology, furnishes the following information concerning the wampum belt about which you inquire:

"The wampum belt referred to was purchased in 1899 from Mr. Willis N. Tobias. It is made of very fine old white wampum, the figures and letters being in blue. It has quite evidently been re-woven in comparatively recent years by unknown persons. It is woven on a home-made cord of red wool or tunic, the ends of which extend from either extremity as a fringe.

"The belt is 34 inches long and a trifle less than 3 inches wide, being the width of eleven wampum beads. There can be no doubt concerning the age of the wampum, which certainly dates back to this period (1790). It seems quite probable that whoever re-worked the belt followed the original design.

"In the Museum catalogue the belt is listed as being Iroquois, although there appears to be room for doubt on this. It was collected in Moraviantown, Kent Co., Canada.

"Concerning its interpretation, the following extract from a letter written in 1899 by Mr. Beauchamp is quoted:

'The white belt was evidently meant for presentation to Indians by a white man, and probably is of white man's make. The strings, letters and form of human figures would indicate this. Allowing its reputed age, I would call it a little older. The I G S might stand for John Graves Simcoe, Governor General of Upper Canada, 1791-94, and the two figures hand in hand would be an alliance between him and the Shawnees or others. Thence to Tecumseth's efforts was but a short period. I am quite inclined to call this the true history.'

"A rough pencil sketch of the belt is attached.

"Very respectfully yours,
"W. deC. Ravenel.
"Administrative Assistant to the Secretary."

FROM J. G. SIMCOE TO LIEUT. ADYE.

Brownstown, October 13th, 1794.

Sir:

Being desirous that a Block-house should be built at Chatham at present to serve as the place wherein the builder, Mr. Baker and his assistants shall reside while they are constructing some provincial boats at that place, and which may hereafter be considered as part of the defences or conveniences for a Dockyard,